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CONSTITUTIONAL CONVENTION

OF THE

STATE OF MARYLAND

Maryland Room
University of Maryland Library
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Chamber of the House of Delegates

State Capitol

Annapolis, Maryland

December 2, 1967 - 10:10 a.m.

HONORABLE H. VERNON ENEY,
PRESIDENT

Reported by:
C. J. Hunt
and
D. Fitzgerald

Maryland
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Vol. 19
Folio

P R O C E E D I N G S

THE PRESIDENT: The Sergeant at Arms will clear the aisles and close the doors.

The Convention will please come to order.

The invocation this morning will be offered by the Reverend William M. Driscoll, Chaplain of Loyola College in Baltimore. Father Driscoll.

REVEREND DRISCOLL: O God, Infinite Legislator and Supreme Ruler, all power is from You and depends on You, and whatever is wise and just in our human laws is but a small reflection of Your eternal wisdom. Send us Your aid, we pray, in the discharge of the grave responsibility this Convention has in framing a Constitution for our Maryland citizenry.

Grant us the intelligence to understand our task; objectivity and sound realism to perceive the best; impartiality to work for the good of all. Grant us loyalty to our people, to ourselves, to truth and honesty, and to You.

In calm deliberation may we frame our resolutions in rectitude, and let them be an imitation of Your Providence which governs all things for the well being of each of us and all men.

Place your light in our minds, your strength in our wills, your love in our hearts, that our labors may provide the basis for a sound social order wherein full regard may be had for law, justice and charity.

And as our reward, grant us Yourself forever. Amen.

(Whereupon, the roll was called.)

THE PRESIDENT: Have all delegates answered roll call? The Clerk will record the roll call.

There being a quorum present the Convention is in session.

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. President, I move today's calendar be amended so as to provide that we resume consideration of Committee Recommendation LB-2, and that as amended, the calendar and agenda be adopted.

THE PRESIDENT: Is there a second?

(Whereupon, the motion was seconded.)

THE PRESIDENT: All in favor, signify by saying Aye: contrary, no.

The Ayes have it. It is so ordered.

The day before yesterday Committee Recommendation S&E-2 was received. The Chair overlooked the fact that suspension of the rules was required in order to receive that report, since it had been -- or recommendation, since it had been filed after November 17. Accordingly, the Chair recognizes Delegate Koss for the purpose of moving a suspension of the rules in order to receive Committee Recommendation S&E-2.

Delegate Koss.

DELEGATE KOSS: Mr. Chairman, I move suspension of the rules to permit the body to accept S&E-2.

THE PRESIDENT: Delegate Koss moves suspension of the rules in order to permit receipt of Committee Recommendation S&E-2.

DELEGATE KOSS: Thank you.

THE PRESIDENT: Is there any discussion? Is the motion seconded.

(Whereupon, the motion was seconded.)

THE PRESIDENT: Any discussion? Since it is for suspension of the rules we will have to have a roll call vote. Are you ready for the vote?

A vote Aye is a vote in favor of suspension of the rules, a vote No is a vote against.

Cast your vote.

Has every delegate voted? Does any delegate desire to change his vote?

The Clerk will record the vote.

There being 108 votes in the affirmative and none in the negative the rules are suspended in order to permit committee Recommendation No. S&E-2 to be received.

The Clerk will read Committee Recommendation S&E-2.

MR. QUILLEN: Committee Recommendation S&E-2 by the Committee on Suffrage and Elections, Helen L. Koss, Chairman.

A recommendation that Article II of the Constitution dealing with Suffrage and Elections shall include the following:

THE PRESIDENT: Committee S&E-2 is referred to the Committee of the Whole.

Are there any other motions or regulations?

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. President, I move the Convention resolve itself into the Committee of the Whole for the purpose of considering general orders of the day.

(Whereupon, the motion was seconded.)

THE PRESIDENT: All in favor, signify by saying Aye; contrary, No.

The Ayes have it. It is so ordered. The Committee of the Whole will please come to order.

(The mace was removed by the Sergeant at Arms.)

(Whereupon, at 10:20 a.m., the Convention resolved itself into the Committee of the Whole.)

THE CHAIRMAN: The Committee of the Whole has under consideration Committee Recommendation LB-2, under Debate Schedule No. 7. The Chair recognizes Delegate Gallagher, Chairman of the Committee.

DELEGATE GALLAGHER: Mr. President, Ladies and Gentlemen of the Committee, last evening we were engaged in an attempt to amend Section 3.02 to take care of certain possible difficulties, and in order to make certain and spread on the record the intention of the Committee on the Legislative Branch with respect to the meaning of the

sentence in Section 3.02, which reads, "Each district shall be composed of adjoining territory and be compact in form", I would say that it is our intention that under the interpretation of the words, adjoining and compact, that a redistricting Commission or the General Assembly could not form a district, either a Senate district or a Delegate district, by crossing the Chesapeake Bay. Consequently, therefore, it will not be possible to link up in delegate or senate districts any of the counties on the Eastern Shore, or Western Shore of Maryland.

THE CHAIRMAN: I assume that the Chairman of the Committee on Style has made a note of this statement so that if the question arises in the Committee on Style as to the meaning of the second sentence of Section 3.02 you will have Delegate Gallagher's statement before you.

Delegate Gallagher, I don't want to quibble, but I think your statement was susceptible of an interpretation you didn't intend.

MR. GALLAGHER: Are you speaking of Cecil and Harford Counties, Mr. President?

THE CHAIRMAN: That was one of the questions,

yes.

DELEGATE GALLAGHER: Perhaps it would be best to say that we speak in terms of confining oneself to the territory of one county.

THE CHAIPMAN: Would it be accurate, and I don't know, I ask this just so there won't be any question in the Committee on Style, would it be accurate to say that what you were intending was that in creating districts, it would not be possible to create a district that would combine a county or counties of the Eastern Shore, other than Cecil County, with any county or counties on the Western Shore?

DELEGATE GALLAGHER: Yes, sir, it would. I am deliberately avoiding mentioning Smith Island for the record and I would hope its history would take due note of that fact.

THE CHAIRMAN: Very well. Is there any question as to the statement of the Committee Chairman?

If not, the Chair is not aware of any other amendments to sections prior to Section 3.16. Are there any?

(No response.)

THE CHAIRMAN: Delegate Gallagher, do you have an amendment to Section 3.16?

DELEGATE GALLAGHER: Mr. President, an amendment is being prepared following our meeting this morning in your office.

THE CHAIRMAN: Very well. Then we will pass Section 3.16 and come back to it.

We have now reached the point on the debate schedule where we have under consideration the minority report with respect to Section 3.17. This will be Minority Report LB-2(A). The Chair recognizes Delegate Gilchrist to present the minority report.

DELEGATE CLARK: Delegate Gilchrist.

DELEGATE GILCHRIST: Mr. Chairman, Ladies and Gentlemen. First, Mr. Chairman, I think I might note that this minority report involves not only Section 3.17, but also Section 3.13 and 3.16, and separate amendments are involved for each one of them.

The point which is involved in this minority report relating to 3.17 is applicable also to the two

other sections which I have referred to, although with a somewhat lesser import.

The majority recommendation abolishes the historic Maryland constitutional majority requirement in voting for the passage of bills.

This requirement has been in the Maryland Constitution since Maryland has had a Constitution, and it has required the vote of a majority of the members of the House, or the Senate, as the case may be, for the passage of a bill.

The majority recommendation proposes that a bill shall be passed by a majority of the members present and voting. The minority does not believe that in a Senate of 40 people and a House of 120 people, 11 people in the Senate and 31 people in the House should be able to pass bills of the magnitude which the budget of Maryland has reached at this point, so that 11 Senators and 31 Delegates could pass a billed budget. This is not government by majority of elected representatives. This is government by minority. This is not only a departure from the tradition of Maryland, but this is departure from the practice

in most of the States of the United States.

It is noted in the minority report that there are only five states which have constitutional provisions which permit that which the majority recommendation proposes.

There are two tabulations of the methods of requiring voting percentages which have been before our committee, one a publication by the Council on State Governments, the other a publication of the Council of State Legislators. The two tabulations are a bit different but they come up with what is basically the same.

There are 26 states which require approval by a majority of members elected in each House. There are five which require approval by a majority of the members present in each House. There are three which require a majority of each House; there are three which require a majority of those present, if the number is equal to or greater than a stipulated number of members. In two cases, two-fifths of the entire membership, in the other case, two-thirds of two-thirds, which is a quorum; it would require approval by a majority of the members to which each

House is entitled, which would include in the computation of members any vacant seats. Eleven state constitutions do not mention majority requirements for the passage of bills, and of those eleven, all but two have rules of their legislative bodies which require certain majorities.

It is interesting to note that a couple of those states which have no majority requirements for passage of bills mention in their constitution, required two-thirds for a quorum.

We believe that this thing is such a revolutionary step that it cannot be adopted by the Committee of the Whole or by the Convention without doing a great disservice to the people of Maryland.

In the majority recommendation there are opportunities for political trickery and political chicanery that we have never had. There has been a great deal of talk in this convention about the advisability of legislators. We suggest that advisability of legislators will disappear if you have a situation in which eleven people in the Senate and 31 people in the House can pass bills.

An example of what might happen is a day like

today, or like yesterday, a nice wintery day, in which the attendance is likely to be low. A committee chairman can line up his people for early that day, call a bill up, and get it through with a very limited number of people. Another thin which can happen under the majority recommendation is that in those instances in which a great deal of pressure is on members to vote in a particular way, he can get by with passing in many more circumstances than he can under the constitutional majority rule.

In one of the sections, three-fifths votes are required for the expulsion of a member. That is tied also to a present voting rule, so that if you have a quorum present, for example, in the Senate, of 21 people, three-fifths of the 21 people could expell a member. The same is true in the House.

This step, which the majority would have us take, is so far out of practice with most American states I find it incredible. The present Maryland Constitution requires the constitutional majority. The draft prepared by the Constitutional Convention Commission requires a constitutional majority. All but a very few, five of

the states in the United States, require a greater majority than this, and it seems to us that the only way in which the people of Maryland can be adequately protected against their legislators being invisible and against their legislators becoming involved in political trickery is to stay with that which we have had and that which has historically worked exceptionally well in this State and in other States.

We respectfully urge the Committee of the Whole to support each of the three amendments relating to 3.13, 3.16 and 3.17 which will be submitted.

DELEGATE CLARK (Presiding): Are there any questions of Delegate Gilchrist?

Delegate Scanlan.

DELEGATE SCANLAN: I rise to a point of personal privilege, Mr. Chairman.

DELEGATE CLARK: State your privilege.

DELEGATE SCANLAN: I am glad to return Delegate Storm's compliment of last night by pointing out in the gallery above us the lovely wife of Delegate Rybczynski, along with five of their large family of nine, Paul, Thomas, Carol, Mary and Philip. I think he was afraid to bring the

others for fear of overcrowding the gallery. (Applause.)

DELEGATE CLARK: Are there any questions of Delegate Gilchrist on the minority report? The Chair recognizes Delegate Bamberger.

DELEGATE BAMBERGER: Delegate Gilchrist, the language that is proposed by the majority report is that the vote shall be by a majority of all the members of that house. I thought in your presentation you suggested that this would have the same effect as the language of the present Constitution, which is that it be the majority of the whole number of members elected, but the Commission's report indicates that there was a different intention. Do you intend to follow the view, or do you adopt the intention of the Commission's report?

DELEGATE GILCHRIST. The number of members in the House is defined by, I think it is 3.04 of the Committee's original recommendations, and I don't see very much distinction between the number of members and the total number of people used in your language.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: The Commission Report says

that the present Constitution would require the majority of all those elected, even if there might be come vacancies in the General Assembly, and my only inquiry is whether or not in using the language of the Commission you intend the same meaning that the Commission ascribed to those words.

DELEGATE GILCHRIST: Our intention in the minority report was to have a majority of the total number of members of the House, whether they be elected or appointed members; if there chanced to be somebody filling in a vacancy, that person certainly ought to be included in the calculation of the numbers.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Delegate Gilchrist, I think what Mr. Bamberger meant was this: Suppose there were 120 members elected to the House, but two had died and the vacancies had not been filled. Would you want a majority of 118 at this time, or would you want a majority of 120; that is, all who had originally been elected to the House.

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: In the event of a sudden death in the preceding night and nobody has gotten around to filling the vacancies I still think it would be nice to have the majority of 120.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: So, therefore, it is the position of the minority that they want to follow the existing Maryland practice under the 1867 Constitution and not follow the recommendation of the Constitutional Commission draft?

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: That is correct.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Thank you.

THE CHAIRMAN: Delegate Pascal.

DELEGATE PASCAL: Delegate Gilchrist, what has been your experience with the attendance of the General Assembly? Do you have any figures on that?

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: No, I have not, but I have been advised that the vast majority of the bills which are

passed by the General Assembly are in fact passed by a much greater majority than three-fifths. Most of them are passed by an overwhelming percentage.

THE CHAIRMAN: Delegate Pascal.

DELEGATE PASCAL: That the majority recommendation would have the tendency to improve the attendance?

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: I certainly don't think it will hurt the attendance.

THE CHAIRMAN: Delegate Pascal.

DELEGATE PASCAL: I said majority. Do you think the majority recommendation would have a tendency to improve the attendance?

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: I think the majority recommendation would have a tendency to hurt attendance because it will not require so many people to pass bills.

THE CHAIRMAN: Delegate Pascal.

DELEGATE PASCAL: Do you really think it is going to be a problem with 11 people in the Senate and 35 in the House? Do you think a competent and honest legislator

is going to let that happen?

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: I do not think they will but on the other hand I want to make sure they don't.

THE CHAIRMAN: Delegate Pullen, a question to the minority spokesman?

DELEGATE PULLEN: Mr. Chairman, I intend to vote for your amendment but don't you think it would help if you would amend the amendment and provide for deduction of payments and expenses for absence?

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: I think it might not be a bad idea to follow this as we are doing in this convention, but I think we are doing it by rule and I believe it can also be done by rule there.

THE CHAIRMAN: Delegate Pullen.

DELEGATE PULLEN: Mr. Chairman, I am not serious.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Delegate Gilchrist, one of the major arguments made by the majority report is that the present requirement of a constitutional majority means that

a person who absents himself from the floor during a vote, although not being recorded so, is in effect a nay vote, because he is one less vote towards the required Constitutional majority. The minority report doesn't address itself to that. Would you care to comment on that argument?

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: The minority feels that they would like to have those people recorded and if they in absenting themselves voluntarily turn up with a no vote, they show. The way the majority proposal would have it, it would be very much easier to be a no show.

THE CHAIRMAN: Any further questions?

Delegate Hanson.

DELEGATE HANSON: Delegate Gilchrist, do I understand your response to Delegate Bamberger to mean that you would force, or wish to force a delegate to state publicly the manner in which he would vote if he did not absent himself or did not abstain?

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRISE: I did not say that, Delegate Hanson. This position got involved in the argument on

secret ballot last night. I simply believe that it is highly desirable that the legislators be here, and that we know how as many of them as possible feel about an issue which is before them, so that if there are a great number who do not want to vote, they should not be able to pass a bill.

THE CHAIRMAN: Delegate Hanson.

DELEGATE HANSON: No further questions.

THE CHAIRMAN: Any further questions of the minority spokesman?

If not, he will return to his seat and we will consider the amendment to be offered by the minority.

Delegate Gilchrist, the Chair understands that to implement the minority report you propose to offer similar amendments to Sections 3.13, 3.16 and 3.17, is that correct, sir?

DELEGATE GILCHRIST: That is correct.

THE CHAIRMAN: So that we will have the matter before us I will have all three amendments distributed at this time, although we will consider them separately. The pages will please distribute Amendments AC, AD, AE.

Amendment marked AC will be No. 14.

Amendment marked AD will be No. 15.

Amendment marked AE will be No. 16.

The Clerk will read Amendment 14.

MR. QUILLEN: Amendment No. 14 to accompany Minority Report LB-2(A), to Committee Recommendation No. LB-2, by Delegates Gilchrist, Linton, Clark and Della:

On page 3 Section 3.13 Organization of General Assembly in lines 34 and 35, lines 43 and 44, and line 46, respectively, in each instance strike out the following: "present and voting, a quorum being present".

THE CHAIRMAN: If you have not received the amendments, please signal to the pages.

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, will it be understood that the passage of the first amendment will be tantamount to passage of them all without any further argument?

THE CHAIRMAN: We will submit them one right after anotherfor vote and the Chair would hope there would be no further discussion.

Amendment No. 14 having been seconded, the Chair

recognizes Delegate Gilchrist to speak to the amendment. Just a second, Delegate Gilchrist.

So that we can save time on the voting, I will have the Clerk read each of the three amendments. He has read No. 14. I will ask the Clerk to read 15 and 16.

MR. QUILLEN: Amendment No. 15 to accompany Minority Report LB-2(A) to Committee Recommendation No. LB-2, by Delegates Gilchrist, Linton, Clark and Della:

On page 4 Section 3.16 Consideration of Bills in lines 39 and 40 strike out the following: "present and voting, a quorum being present,".

Amendment No. 16, to accompany Minority Report LB-2(A) to Committee Recommendation No. LB-2, by Delegates Gilchrist, Linton, Clark and Della:

On page 5 Section 3.17 Journal and Passage of Bills in lines 14 and 15 strike out the following:

"present and voting, a quorum being present".

THE CHAIRMAN: The Chair recognizes Delegate Gilchrist to speak to Amendment 14.

DELEGATE GILCHRIST: Mr. Chairman, I yield three minutes to Delegate James Clark.

THE CHAIRMAN: Delegate Clark.

DELEGATE CLARK: Mr. Chairman, Ladies and Gentlemen of the Convention, I arise to support the minority report.

It seems to me that the more recent leadership of the General Assembly of Maryland and the membership also has been making some progress to improve the image of the General Assembly in the eyes of the people of Maryland, and I think that the proposal of the committee would set the stage for a situation that would probably make it more difficult for us to proceed along these lines.

It seems to me that this is sort of an irresponsible proposal that the committee has come forward with. We in Maryland have gotten along very well under a Constitutional majority. We are used to it. Any bill that cannot receive 61 votes in the House, the new House, and 21 votes in the Senate, perhaps should not become a law of Maryland.

The people deserve to have confidence in their laws, and if you set the stage where laws can be passed without a majority, then I think the people will lose

confidence, not only in the laws, but in people who make them.

I think it sets the stage where some devious practices might take place and I just can see no advantage and I can see a great many disadvantages to the proposal which the committee has put forth.

I back Delegate Gilchrist and his minority report and the amendments which will set thing straight and I certainly hope that the members of this Convention will support each of these amendments, which are necessary to return us to the Constitutional majority which we are used to, which I think is necessary and I hope that you will support all of these amendments.

Thank you.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, and Ladies and Gentlemen of the Committee, in response to Delegate Clark's observation that it would be possible to perhaps play a few games with this kind of a majority, may I point out to you that in 1961, when the House of Delegates was debating a very significant reapportionment bill, that it

became necessary for us to get the constitutional majority. That majority was one short of that required, and despite the best interests and efforts of the State Police and all the militia of Maryland to locate the missing delegate who was supposed to be planting tomato crops at a late hour after the sun had gone down on his farm, and was in fact hideen away quietly in his house, a very significant bill failed of passage as a result of a stay-at-home vote, which was in effect, of course, a no vote. I submit to you the State of Maryland, the people of Maryland would have been far better off had we not had a constitutional majority required, because the reapportionment was a bloody battle to say the least; some of the scars which the members of this Convention bear will indicate this. I would say simply this: That if we have faith in a General Assembly, we will have faith in a quorum of the General Assembly. If we are going to have controversial bills, people are going to turn out to vote for them. Certainly everyone knows when you have a routine matter and a non-routine matter, I submit to you that the leadership or the chairman of any committee will only fail in this respect once,

because if he had indicated to his committee and to the membership that a bill would be brought up at a certain hour or would not be brought up and that word were broken, then certainly there would be due efforts made to remedy the situation.

Just for the record, I should like to say that in addition to Florida, Idaho, Montana, New Jersey and New Mexico, following the practice in the Constitution, which the majority urges, that there be in addition to that, 11 states which use the majority vote of those present and voting, a quorum being present; those states are not insignificant. They do so by rule. They are Connecticut, Massachusetts, Mississippi, North Carolina, Rhode Island, South Carolina, Texas, Vermont, West Virginia and Wisconsin.

I submit to you that what we are suggesting here may be a departure from the Maryland practice, but it is by no means a practice which differs significantly from many of the other States of the Union, and the Congress of the United States itself. Our Federal Government finds the majority proposal quite acceptable and operates quite successfully under it, so with that I should like to yield four minutes to Delegate Gleason, if I may, Mr. Chairman.

THE CHAIRMAN: Following the next speaker for the proponents.

Delegate Gilchrist.

DELEGATE GILCHRIST: I yield three minutes to a man who has probably had more experience with the machinery of legislation than any other man in the room, Delegate Della.

THE CHAIRMAN: Delegate Della.

DELEGATE DELLA: Mr. Chairman, Delegates of the Convention, I think we are on the right path of trying to create a legislative body that is going to have a good image with the public. When you take a 40-member Senate and say the least number of those members of 11 can pass a bill in the Senate because if you have 21 as your quorum and a majority of your 21 would be 11, now ordinarily under our present procedure and under our present Constitution, it would take 21 members to pass a bill to make it constitutional.

In the House, we have 120, a quorum is 61, and under the proposal by the majority of the committee it would only require 31 members out of a body of 120.

My good friend, the Chairman of the Committee, mentions one bill. It so happens I happened to be up in the country over the weekend and I have, I suppose, a fairly decent house, but I had a squirrel in it, but am I going to burn my house down to get the squirrel out? We have a good procedure under the present Constitution and it has been working for the last hundred years, and it is listed in the Constitution, where a majority of the elected members of the body shall be the necessary constitutional majority.

We in the Convention are operating under a 72-vote majority of the boady.

We also passed in the executive branch just yesterday, on the return of vetoed bills from the Governor's office; the bill was passed by the affirmative vote of three-fifths of all the members of each house.

THE CHAIRMAN: You have one-half minute, Delegate Della.

DELEGATE DELLA: I think we have to be consistent. If we are going to permit three-fifths vote on vetoed bills of all the members then I think it ought to be three-fifths vote of all the members of both bodies to pass a

bill that required three-fifths vote, or a majority.

I would like to see, for good government, to adopt all three amendments that have been offered by the minority report. I don't think the majority recommendation is workable. It will create a lot of sculduggery, I am sure of that, and if you want responsible leaders in the General Assembly, give them the tools to work with, and make it a fixed number that is required to pass a bill, that he knows and the members know what is required.

THE CHAIRMAN: Delegate Gleason.

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, if this amendment passes I want to make it clear that I withdraw my opposition to the other two amendments.

THE CHAIRMAN: Very well.

Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, I would hope that the mover of this amendment will say the same thing if his amendment is defeated.

It seems to me, fellow Delegates, that at any time and on any occasion when there is a minority, which

there always is, which resists a majority recommendation of the committee there is a constant reference and allusion to the historic traditions, requirements and body, present to the present and past constitutions of Maryland. I know at least the primary mover of this amendment has often voted to remove things that have been embraced in the ivy halls of tradition of past constitutions. I would suggest to him that this is not a case where he should change really his past voting record.

The majority of the committee did not consider this as any great significant change in the protection of the rights of the people. We considered this simply as a method for simplifying the procedures when the legislative halls of the State Government, and here in Annapolis.

The Chairman of the Committee has already referred to the record around the states and I think that record has been a little bit distorted by the minority report. It is true that 26 states require a majority of the members elected to each house, but there are 11 states that don't even have a requirement in the Constitution at all, majority or just a majority of those present; five

require approval as we are suggesting it here.

The United States Congress has operated for decades and decades without anyproblem whatsoever about a minority of its members passing major legislation.

I think that that is something that the present members of the General Assembly seem to overlook at times: that there are many pieces of legislation that generally in considering the whole context of legislative matters that come before a session that are classified as kind of trivial in nature. These matters it should be possible to get by so as to leave more time to deliberative judgment within the forums with respect to major pieces of legislation and let me nail if I can one thing right to the wall. They talk about 11 members passing a piece of legislation. If you will read the majority report, you have to have a quorum present, so at any time any member of the House, either in the House of Delegates or the Senate investigate a piece of legislation about to go through, which he feels that there should be more members present, all he has to do is stand on his feet and say, I suggest the absence of a quorum, and that will take care of it.

THE CHAIRMAN: You have one minute, Delegate Gleason.

DELEGATE GLEASON: Recently, within the past two or three weeks a situation developed in the State of Michigan. I would refer you to the fact that Michigan is one of the 26 states that requires a majority of the members elected to pass a bill. At that time the Governor of the State had recommended for part of his program a bill to be adopted by the legislature of Michigan, and I have to say, it was members of my own party that took a walk and they brought that legislature to a standstill and they couldn't pass that legislation because they required a majority of the members voting and elected. This is what the majority report gets at. We want to free the hands of the legislature so that if at any time you have a vigilant minority that says, we are not going to cooperate and pass legislature, we are going to go home, the legislature will not be brought to a standstill.

I would urge you to reject the minority report.

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: I yield two minutes to

Delegate James.

DELEGATE JAMES: Mr. Chairman and fellow Delegates, I would like to speak in opposition to the committee report and in favor of the minority report.

I am in favor of the minority report because I feel the majority report is, No. 1, undemocratic. It seems to me that in a legislative body, a bill should have a vote on final passage of the majority of the membership. This is the responsibility of the legislative body. A bill should not proceed in the order of becoming law unless it has votes of the entire membership.

We have never had any problem about attendance in the General Assembly. We have never had a problem such as that cited in Michigan. Most of the sessions of the Senate are attended 100 percent. It is seldom that you have even one or two absences. The members of the Senate are very faithful in their attendance, and I can say that the House is equally, the House members are equally faithful so that we have a historic record of a very, very good attendance in the General Assembly, and this proposal would jeopardize this. We certainly do not want to follow the

congressional path, in which the quorum rule promotes absenteeism. We certainly do not want to be in a situation where 435 member house is passing legialtion sith 140 members voting for it. This certainly is not a good thing. The people of America really don't know and don't comprehend the absenteeism that exists in Congress. It is one of the worst things about the Federal Government, this type of absenteeism.

THE CHAIRMAN: You have a quarter of a minute.

DELEGATE JAMES: We don't want to promote this type of thing in Maryland. We want to adhere to a rule which promotes attendance and which requires people to attend, or requires the majority membership.

I would like to call your attention to one point. Under one of these sections a member could be expelled with three-fifths of a quorum so that you would be expelling people under one of these proposals without the necessity of a majority vote.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, I yield the remaining three minutes to Delegate Hanson.

DELEGATE HANSON: Mr. Chairman, I do not beleive that the problem of attendance will be affected very much one way or the other by this proposal. The Congress of the United States, when there is anything that is important to vote on. The attendance is very high.

I think that the good attendance that we have had in the Maryland General Assembly will continue, whetner we have this amendment or whether we do not have this amendment.

The problem that exists with requiring constitutional majority for the passage of a bill is, as Chairman Gallagher explained, that an absence is counted as a no vote.

One of the most recent studies that has been done of legislatures throughout the country, both Federal legislature and the legislatures of 50 states, called the American Legislative Process, by Professors Keefe and Ogol, reports on the studies that have been done of voting requirements in legislature. They point out that the number of votes needed for passage of bills varies from state to state, with about two-thirds requiring a majority of the

members elected while the rest call for a simple majority of those present and voting. They say, and I quote, the requirement of constitutional majority, majority of the members elected, has come to present a convenient and evasive way of killing a bill without going on record against it. An absence or non-voting member becomes in effect an opponent of the bill. If enough members decline to vote,the bill is certain to fail. The individual legislator can, if he chooses, argue that he was meeting with constituents, that he did not hear the bell, or that he was otherwise detained. Legislative devices for evasion, for escaping pressures and avoiding records are numerous. Most of them are maintained by plausible, if not altogether convincing reasons. That is the end of the quotation.

I think if we want legislators, and I apologize for quoting from a professor of government, but I think if we want our legislators to be responsible to the electorate, if we want them to be responsible to the House in which they serve, I think then we should deprive them of the opportunity simply to be absent, and thereby avoid a vote.

In reference to the comments of the distinguished

former President of the Senate, who spoke a few minutes ago, referring to the squirrel in his house, I would say here only that we have no intention that the squirrels vote in either House.

THE CHAIRMAN: You have one-half minute, Delegate Hanson.

DELEGATE HANSON: We would hope that we would have a situation in which all members would be present and vote, but in the event of the illness of a member, in which there was a 60 to 59 vote, it would seem to me, it would seem to the majority of our committee, that the bill should not die simply because one member happened to be absent, either for causes he could not prevent, or for causes which he in fact developed himself.

THE CHAIRMAN: Delegate Gilchrist, you have one and a half minutes you may allocate.

DELEGATE GILCHRIST: Mr. Chairman, I believe I would like to use the remaining time to correct one impression left.

I suggest that the research of the majority is a little bit inadequate because if you take the combination

of the two publications by the Citizens Conference and by the Council of State Legislatures and combine them you will find that of those states which do not have a constitutional provision requiring the majority of those elected, you will find that all but two of them limit by rule the majority which is required for the passage of the bills and that four of those states which have no constitutional provision respecting passage have a two-thirdsquorum requirement fixed in their constitutions, so that the number of states which are using a provision in any way similar to that which is being offered by the majority here, is very much more limited than they would have you suggest.

I might also comment with respect to one thing.

THE CHAIRMAN: You have one-quarter minute.

DELEGATE GILCHRIST: If enough members of a particular House do not wish to have a bill passed, perhaps it should **not** be passed.

THE CHAIRMAN: Under the debate schedule there is now available a maximum of ten minutes of limited but uncontrolled time. Is there any further discussion?

Are you ready for the question.

Delegate Gill.

DELEGATE GILL: I would like to speak in favor of the majority report.

THE CHAIRMAN: Proceed.

DELEGATE GILL: I think we should write into the Constitution something that fits Maryland rather than what the other states are doing. We should only use what the other states are doing as a guide. With that in mind, I would like to differ with Delegate Della in believing that we must be consistent in each of our provisions. I think that is good at times but if at times we should deviate from that, it may be wise to do so.

With that in mind, I would like to just review some of the things that we have done that shows that we have approved of constitutional majorities for several articles and sections, or for several sections.

In 3.12, the Legislative Branch, we approved constitutional majority in order to extend the session to the second 30 days, and also to call a special session. In the Executive Branch we have already approved the constitutional majority for the return of vetoed bills, in 4.17.

In 4.08 we approved the removal of the Governor and 4.09 for the succession of the Governor. In 4.18, for the organization of the Executive Branch and 4.19 the reorganization of the Executive Branch.

Those have already been approved and they include constitutional majorities.

To come up very soon from the general provisions, General Provision 7 has an amendment to the Constitution which requires a constitutional majority. General Provision 10, impeachment of elected officers, requires a constitutional majority. State Finance Minority Report 4(A) is suggesting a constitutional majority for state indebtedness, authorized state indebtedness, with the flexible 25 years included.

THE CHAIRMAN: You have one-half minute, Delegate Gill.

DELEGATE GILL: If we approve the majority report for the simple majority, the other legislation that will be faced by the General Assembly, I think we have built in very important protections for us. The only exception I have is with regard to expelling members from the legislature,

which is included in 3.13 and at the time I voted for the simple majority I stated at the time that I was for a constitutional majority for expelling members.

THE CHAIRMAN: Are you ready for the question?

Delegate Fornos.

DELEGATE FORNOS: Mr. Chairman, I want to speak against this, so if you get another speaker to speak for it --

THE CHAIRMAN: Delegate Linton, do you desire to speak for or against?

DELEGATE LINTON: Against.

THE CHAIRMAN: Any delegate desire to speak in favor?

Delegate Chabot.

DELEGATE CHABOT: Very briefly, Mr. Chairman. All of those speaking against these amendments have been speaking against Amendment No. 16, as Delegate Gill pointed out so well at the end of her remarks. Amendment 14 is different. Amendment 14 would permit 13 members of the Senate to expell a member of the Senate of this State. Amendment 14 would permit 37 members of the House of

Delegates to expell a member of the House of Delegates. Whatever you may do with regard, or whatever you may consider with regard to the appropriate number for passing a bill in the normal course of events, with the normal time requirements, I suggest that you vote for Amendment 14.

THE CHAIRMAN: Delegate Fornos.

DELEGATE FORNOS: Mr. Chairman, I was speaking against the committee report and I thought so was Delegate Gill, but I guess we all got a little confused here.

THE CHAIRMAN: No, she is speaking against the amendment. Do you desire to speak in favor or against the amendment?

DELEGATE FORNOS: In favor of the amendment and against the committee report.

THE CHAIRMAN: Anyone desire to speak against the amendment?

Delegate Linton?

DELEGATE LINTON: No.

THE CHAIRMAN: Anyone desire to speak against the amendment?

Delegate Fornos.

DELEGATE FORNOS: Mr. Chairman, fellow delegates, I seldom find myself aligned with the distinguished former President of the Senate, but when he is right, being one of those in this body who votes with an open mind, I have to side with him.

I would like to recall a bill which was sent down from the Governor's office shortly after he took office in the last session which eliminated competitive bidding on all contracts to be awarded by the State Roads Commission below the sum of $10,000. The effect of this bill was to give the State Roads Commission, the right to award contracts throughout this State, up to $10,000, to anyone he wanted to. After 12 hours of debating this bill in this House it finally passed by one vote. A man turned around to me and said, I made a mistake on that vote. I was with you and I just didn't realize the mistake I made, as our president made yesterday and some other people have moved here, so he got up and moved for reconsideration. It was 11:20 at night. The Senate was out of session already at 10 o'clock. The Speaker without blinking said, I am sorry, that bill has already gone to the other body.

He said, if you like, I would send a message to the Senate and ask that bill be returned for our reconsideration.

One minute to midnight the following night was adjournment time and the message came back signed by the Honorable William James and he said, we refuse to return the bill. We were up the creek. That was with the 72-man majority required. When you see the speed with which bills go through this House, by the time you find a bill that is read across the desk, in your notebook, it is already passed.

I urge you to protect the people of this state and the very few bills that are going to deny anyone anything are going to be very minimal compared to the damage that is going to be done if a bill is allowed to be passed by a 31-man vote in the lower house and a 11-man vote in the upper house.

THE CHAIRMAN: Any other delegate desire to speak in opposition to the amendment?

Delegate Sickles.

DELEGATE SICKLES: Mr. Chairman, very briefly, I

think that the arrangements on both sides of this question are a bit overstated. It seems to me that there are dire results that can be predicted under either system. I have worked under both systems. I prefer the latter system, which does not require a constitutional majority. I think it takes one impediment away from the orderly legislative process which has too many impediments built in already.

THE CHAIRMAN: Delegate Linton.

DELEGATE LINTON: Mr. Chairman, I don't know of any organization that has a precedent for this type of majority in passing laws unless it be the National Bird-watchers Society and I don't believe they are an authority. If we are going to pay our legislators $8,000 and not require that they be present to get a constitutional majority to pass laws of this State, especially after removing the right of counties to exempt themselves from laws, we are giving live ammunition to those proponents of a new Constitution, and I would submi- that we should by all means adopt these amendments and I so speak in favor of it.

THE CHAIRMAN: Are you ready for the question?

The question arises on the adoption of Amendment

No. 14. A vote Aye is a vote in favor of the amendment. A vote No is a vote against.

Cast your votes.

Have all delegates voted?

Does any delegate desire to change his vote?

The Clerk will record the vote.

There being 99 votes in the affirmative and 23 in the negative, the motion is carried. The amendment is adopted.

The question now arises on the adoption of Amendment No. 15.

Are you ready for the question?

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, I urge approval on adoption of both of these amendments in view of the action just taken.

THE CHAIRMAN: A vote Aye is a vote in favor of the amendment. A vote No is a vote against.

Case your votes.

Has every delegate voted?

Does any delegate desire to change his vote?

The Clerk will record the vote.

There being 121 votes in the affirmative and two in the negative, the motion is carried. The amendment is adopted.

The question now arises on the adoption of Amendment No. 16.

The Chair recognizes Delegate Beatrice Miller.

DELEGATE B. MILLER: I would like to ask the Chairman of the Legislative Committee a question, if I may.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I yield.

THE CHAIRMAN: Delegate Miller.

DELEGATE B. MILLER: When you urged approval of Amendment 15, I assume that was because it was applied in the House exactly as Amendment 14 applied in the Senate. In Amendment 16, this is a separate consideration, is it not? This applies to the regular passage of bills and does not have to do with expulsion?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Yes, that is correct, but I

think we ought to be consistent throughout the entire Constitution once the decision has been made, so that there won't be different kinds of a majority, and therefore I would urge that we adopt Amendment No. 16 as well.

THE CHAIRMAN: Delegate B. Miller.

DELEGATE B. MILLER: Is it not true that in other constitutions there is a difference in the kind of majority required for expulsion and the kind of majority that is required for the passage of bills?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Yes.

Some of the states do vary with respect to this, but again I say that in the interest of having a consistent Constitution on the question of what kind of majority vote is necessary to undertake various activities, I would pesonally prefer that the same kind of a majority be used throughout the entire Constitution.

THE CHAIRMAN: Delegate Miller, do you desire to speak on the question?

DELEGATE B. MILLER: Yes, sir.

THE CHAIRMAN: You may proceed.

DELEGATE B. MILLER: I am sorry that I have to take a different position from my Chairman on this matter but I feel that the number of people who voted for Amendment 14 and 15 feel that when the House votes on its own rules, and its own decisions, that this is a different type of procedure, and that in that case, a constitutional majority might be necessary, but I would think that in the examples we haveheard today, of legislators who have deliberately obstructed the passage of bills because they did not wish their votes known to their constituents, that a different kind of situation prevails, and I would urge that we vote no on Amendment 16.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: Mr. Chairman, may I ask a question of Chairman Gallagher?

THE CHAIRMAN: We are beyond the time of questions. He does not have the floor. The Chair permitted it in that one instance and will again but we cannot at this point in the discussion have questions of the committee chairman.

Delegate Gallagher, do you yield to a question?

DELEGATE GALLAGHER: I do, sir.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: I wanted to raise a question, because of the colloquy that occurred earlier between Chairman Gallagher and Delegate Gilchrist with respect to the interpretation which they placed upon the words which would be left in this section if this amendment were adopted in the instance where a legislator resigned.

THE CHAIRMAN: You don't have to explain the reason for it. The Chair said you can state your question.

DELEGATE MARION: My question is whether Delegate Gallagher is asking us to vote for this amendment, based upon the Gilchrist interpretation of that language, or whether you are asking us to vote for it on what seems to me to be the interpretation of the language, that a member is a member and if there is no member there is not part of a majority.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Well, I believe again that since Mr. Gilchrist indicated he was favoring in his minority report the existing Maryland practice under the

1867 Constitution, which is a majority of all of those seats in a Senate or House, regardless of whether or not there be a vacancy, that that is his position, and I so interpreted all these amendments to mean that, although I quite agree, there could be a little more apt phraseology to make that clearer.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: No further questions.

THE CHAIRMAN: Any further discussion?

Before calling for the question on Amendment 16, the Chair's attention has been called to the fact that Delegate Boyce's switch is still not operating and that I perhaps incorrectly announced the vote on Amendments 14 and 15.

Delegate Boyce, will you announce your vote on Amendment 14?

DELEGATE BOYCE: I voted no on Amendment 14 and Aye on Amendment 15, sir, and I think the Clerk registered on the machine or on the paper.

THE CHAIRMAN: The Chair's announcement was wrong. The vote on Amendment 14 would be 99 to 24, and on

Amendment 15, 122 to two.

Are you ready for the question on Amendment 16? A vote Aye is a vote in favor of the amendment. A vote No is a vote against.

Cast your vote.

Have all delegates voted?

Does any delegate desire to change his vote?

Mr. Boyce has voted Aye.

The Clerk will record the vote.

There being 109 votes in the affirmative and 10 in the negative, the motion is carried and the Amendment No. 16 is adopted.

Delegate Gallagher, I believe your amendment passed earlier this morning is now available, AG, to Section 3.16. Do you desire to offer that at this time?

DELEGATE GALLAGHER: Mr. Chairman, I do.

THE CHAIRMAN: The pages will distribute Amendment AH.

For what purpose does Delegate Boileau rise?

DELEGATE BOILEAU: A point of personal privilege, Mr. Chairman.

THE CHAIRMAN: State the privilege.

DELEGATE BOILEAU: There are three residents of the Fifth District of Baltimore County, a district which I grew up with and I am sure the delegates from that district will not mind if I introduce them since they are closely related to me, my parents and my younger brother, Michael. I hope you will welcome them to the Convention with me. (Applause.)

THE CHAIRMAN: Delighted to have them.

Delegate Maurer.

DELEGATE MAURER: I rise to a point of personal privilege.

THE CHAIRMAN: State the privilege.

DELEGATE MAURER: I wish to recognize in the balcony some citizens of Montgomery County, in the balcony above the rostrum. Mr. and Mrs. Fielding Ozburn, long known for their civic activity in the Silver Spring and Montgomery County area and I would like to also call attention to the presence of my husband and my 15-year old son in the rear gallery.

THE CHAIRMAN: Delighted to have all of you.

(Applause.)

THE CHAIRMAN: Amendment AH. This will be Amendment No. 17.

Will the Clerk please read the amendment?

MR. QUILLEN: Amendment No. 17 to Committee Recommendation No. LB-2, by Delegate Gallagher:

On page 4 Section 3.16 Consideration of Bills in line 33 strike out the words "shall be prepared in final form" and insert in lieu thereof the following words "and all amendments shall be in writing".

THE CHAIRMAN: The amendment is offered by Delegate Gallagher. Is there a second?

(Whereupon, the motion was seconded.)

THE CHAIRMAN: The amendment having been seconded, Delegate Gallagher, do you desire to speak to it?

DELEGATE GALLAGHER: Mr. Chairman, Ladies and Gentlemen of the Committee, unfortunately I did not have an opportunity to call the Committee on the Legislative Branch in to a meeting to discuss this, and it was prepared this morning following a meeting with the President and with the President of the Senate, Delegate James.

The Committee on the Legislative Branch will remember that we spent some time with this section in committee trying to get away from the use of language which would indicate that the bill on final passage would have to be in a single complete printed or mimeographed form, because we wanted to allow the second House to be able to amend a bill after it had come over from the originating House, and to attach the amendments.

It was felt this morning in the conference that there was still some danger of this interpretation, although we had eliminated the word "printed", which we felt argued very much against the position we wished to take.

Consequently, I have prepared the language which you have before you in Amendment No. 17, which would now make the sentence in Section 3.16 read, except during the first four days of special session, no vote on final passage of a bill shall be taken until the bill and all amendments shall be in writing.

I think this is clearer to the interpretation and the desired result which we sought to achieve in the committee. Therefore, I would urge the adoption of the

amendment, Mr. Chairman.

THE CHAIRMAN: Is there any further discussion? Are you ready for the question.

Delegate Della.

DELEGATE DELLA: Mr. Chairman, this is the present procedure. When a bill is brought over from another chamber, amendments are attached to the bill, and the bill is stamped as being amended.

Under the proposal as stated in LB-2, you might get the impression that bill would have to go back to the printer and be printed before it was returned to the house of origin. This would permit the bill to be returned as long as the amendments are printed and attached to the bill and it would expedite the legislative procedure, and I think it is very necessary that this amendment be attached to the proposal.

THE CHAIRMAN: Delegate Della, you used a word I think inadvertently. You said as long as the amendments are printed. You mean as long as they are written regardless of whether they are printed.

DELEGATE DELLA: Written, yes.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, I am trying to determine whether or not we might better get the sense of the present practice which we wish to retain by perhaps adding the word, adopted, after amendment, and all amendments adopted shall be in writing. I would ask Delegate Della and Senator James if they believe this would be preferable or would they desire the language as it exists in the amendment?

THE CHAIRMAN: Delegate Della.

DELEGATE DELLA: If the amendment is going to be sent back to the House where the bill originated from, those amendments must be adopted by the second House.

THE CHAIRMAN: Delegate Della, I think the question goes to a different point. It is not intended that amendments offered and not adopted are required to be attached to the bill, is that correct?

DELEGATE DELLA: Thatis true. They are not adopted. I mean they are not accompanying the bill. Those amendments are not adopted. It is only those amendments that are adopted.

THE CHAIRMAN: Delegate Gallagher, would the problem be solved by adding the word, thereto, after amendments?

DELEGATE GALLAGHER: It would, Mr. Chairman.

THE CHAIRMAN: Do you desire to make that change?

DELEGATE GALLAGHER: I would move therefore to insert after the word amendments, on line 5 of Amendment No. 17, the word, thereto.

THE CHAIRMAN: On the theory that an amendment is not an amendment thereto to the bill unless it has been adopted.

DELEGATE GALLAGHER: That is correct, sir.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Will Delegate Gallagher yield for a question?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Yes, sir.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Delegate Gallagher, do the words, in writing, permit an amendment by interlineation in hand, hand script?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Well, it is subject to that possible interpretation but we have said that we are following the present practice and the present practice is not to use handwritten amendments.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Is there any way that it can be made clear that the amendment at least ought to be typed or put in some form that the members of the houses can read them?

THE CHAIRMAN: Delegate Gallagher, will you yield to Delegate James?

DELEGATE GALLAGHER: Yes, I do.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: The practice is to handle this by rule. You cannot vote on an amendment unless a written amendment is on everyone's desk. The rule can be suspended, but it very seldom is, so as a practical matter it is covered by the rule. There are really two situations where the amendments would be considered, as in writing, where they would not actually be written into the bill at the time of

vote. One would be in the second chamber where the second chamber was considering an amendment. You could vote on the amendment and then on the bill on final passage, with the amendments attached. Thatis one situation, and the other situation would be where the bill had been returned to the house of origin with amendments and in both those situations, the amendments under the rules have to be on the members' desks.

THE CHAIRMAN: Delegate Della.

DELEGATE DELLA: Mr. Chairman, when the bill is introduced and amended in the house of origin, those amendments are printed into the bill, so when you read the bill you can read the amendments in the bill itself. When the bill is then amended in the second house, there must be five copies of the amendment offered, and one of those copies, by rule, is given to the printer and one goes to the journal clerk, so you have a copy of the amendment. There is no writing in. They must be typed and offered and then the amendments are offered to the membership, so they know what they are voting on, and when the amendments are adopted, five copies of the amendments are attached to the

bill to be returned to the house of origin.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: That last statement puzzles me a little bit. When the --

THE CHAIRMAN: Are you addressing a question to Delegate Della?

DELEGATE GLEASON: If I may, sir.

THE CHAIRMAN: Do you yield to a question, Delegate Della?

DELEGATE DELLA: Yes, sir.

THE CHAIRMAN: Proceed, Delegate Gleason.

DELEGATE GLEASON: When the five copies are delivered to the rostrum with the proposed amendment to the second house, is a copy of that amendment put on everyone's desk before the vote?

THE CHAIRMAN: Delegate Della.

DELEGATE DELLA: The amendment is offered by a member, and before the body votes on that amendment, those members had a copy of what they are voting on.

Now, if the amendment is adopted, then you have 142 copies of that amendment sent over with the bill and the

amendments attached to the bill so that the members of the house of origin would know what amendment was offered to that bill so there would be no guesswork whatsoever.

The five copies of the amendment offered to a bill, one goes to the printer, two copies go to the journal clerk, a copy goes to the legislative reference, and one copy is used for the press.

That is the required five copies that must be filed across the reading clerk's desk.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: Let me go back over the road once more with you, if I might, because the five copies and the places they go to are things that are bothering me, because this amendment says the bill shall not be approved in final form in each house until the amendments are printed, or are in writing, the bill is in writing, so I am talking after the bill has left the house of origin, and it comes to the second house. It has been amended already in the house of origin and I understand the amendments are printed on the copy of the bill. It is indicated on there. It gets to the second house. The bill is up for discussion and amendments are proposed. Five copies are put across

the desk, and they go to various sources, as you have indicated. Before the members vote on that amendment, I gather from Senator James shaking his head, they have a copy of that amendment in writing,sitting on their desk.

THE CHAIRMAN: Delegate Della.

DELEGATE DELLA: That is absolutely true, Delegate Gilchrist.

THE CHAIRMAN: Delegate Gleason.

Delegate Della.

DELEGATE DELLA: Delegate Gleason, when you offer an amendment, every member of that body is given a copy of it. In addition to the five copies that is attached to the bill, plus the number of amendments that must be forwarded to the house of origin, in the house, if we are to consider a Senate bill that has passed the Senate, amended in there, the type is in bold print. If it is amended in the House, we must have 40 copies of that amendment given to the members of the Senate so we can pass on that amendment as offered to the second house.

THE CHAIRMAN: Are you ready for the question?

Delegate Case.

DELEGATE CASE: Mr. Chairman, so that the record can be absolutely straight on this subject, could it show that the words, in writing, are intended to embrace the procedure which has been described here by Delegates Gallagher and Della and Gleason and James, or some variation of that procedure, but in any event do not mean handwritten script as a quote, in writing amendment , quote, which would be permissive.

THE CHAIRMAN: Delegate Case, the Chair thinks two things are embraced in your comment. I think everyone recognizes that the procedure outlined by Delegate James and Delegate Della is largely a matter of the rules of the several houses, and I did not understand from the Chairman of this committee that it was intended by these words to require that a copy of the written amendment be on everybody's desk. That would still be left to rule.

The second part of your question I think is correct, namely, that it is intended by the use of the words, in writing, to mean something other than handwritten script; whether it be by typewriter, by letter press or offset, or multigraph or anything of the sort, and I take it

from the discussion that the Committee on Style would be free to come up with some alternate expression if it could use one to carry out that meaning.

Has the Chair correctly stated the position of the committee, Delegate Gallagher?

DELEGATE GALLAGHER: Yes, sir, that is the position.

THE CHAIRMAN: Are you ready for the question?

The question arises on the adoption of Amendment No. 17.

A vote Aye is a vote in favor of the amendment. A vote No is a vote against.

Cast your votes.

Delegate Boyce votes Aye.

Has every delegate voted?

Does any delegate desire to change his vote?

The Clerk will record the vote.

There being 119 votes in the affirmative, none in the negative, the motion is carried. The amendment is adopted.

The Chair should have announced earlier this

morning that because of other matters which must be handled, it would be the intent to recess for lunch at about 12:30 today instead of 1; in other words, from 12:30 until 2.

Before moving on to the next matter, Delegates E. J. Clarke and Maurer, on behalf of all the delegates from Montgomery County, desire to make an announcement, and since it is on behalf of all of them, they have asked me to have the reading clerk read the announcement. I hand it to him now.

MR. QUILLEN: Announcement by Delegates E. J. Clarke and Maurer in behalf of the Delegates from Montgomery County.

Mr. President, Ladies and Gentlemen of the Convention:

It is with deep regret that we announce the death yesterday of the Honorable Jack Marshall Stark. Jack Stark at the time of his death was Chairman of the Montgomery County Board of Appeals, in which position he served the people of Montgomery County with great distinction. He was for a short time a candidate for Delegate to the Constitutional Convention of Maryland, but he withdrew in favor

of the bipartisan slate. Those of us who knew him wish to express our deepest sympathy to his wife, Betty Bee,his parents and the rest of his family.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, before proceeding with the other minority report, I wonder if you might take up an amendment marked N.

THE CHAIRMAN: Yes. There is also an amendment marked F. Do you desire to offer that at the same time, or following it, or before it, either one?

DELEGATE GALLAGHER: Yes. I won't offer F, because N is a little more complete and has in it the suggestion made by Delegate Clagget yesterday.

THE CHAIRMAN: Very well, the pages will please distribute Amendment N. This will be Amendment No. 18.

The Clerk will read the amendment.

MR. QUILLEN: Amendment No. 18 to Committee Recommendation No. LB-2, by Delegate Gallagher:

On page 5 Section 3.17 Journal and Passage of Bills in line 4 immediately preceding the word "daily" and the word "current",

and in the same line after the word "proceedings" and the words ", which shall be open to public inspection at all reasonable times,".

THE CHAIRMAN: Amendment No. 18 is proposed by Delegate Gallagher.

Is there a second.

(Whereupon the motion was seconded.)

THE CHAIRMAN: Amendment having been seconded the Chair recognizes Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, Ladies and Gentlemen of the Committee, the purpose of Amendment No. 18 is to reinsert in Section 3.17 the sense of what the Constitutional Commission drafted in its Section 3.17 on page 142 of the volume. There has only been one change from the language of the Constitutional Commission draft, and that is the insertion of the word, reasonable, so that we would now say that each House of the General Assembly shall keep a current daily journal of its proceedings, which shall be open to public inspection at all reasonable times.

The reason that the word, "reasonable", was

added, was prompted by a letter from Carl Everstine, the Department of Legislative Reference, who said if he used the phrase, "at all times", that he was fearful that on a New Year's Eve, while he was engaged in lighthearted frivolity at some party, that a taxpayer of the State might call upon him and say, "I would like to take a look at the proceedings, the Journal of the Proceedings", and he did not feel that he wanted to be interrupted in his New Year's Eve merriment. Consequently we felt it was proper to insert the word, "reasonable", assuming, of course, that the New Year's Eve, after the close of business was not reasonable.

The other change was the insertion of the word, "current", a current daily journal.

The Committee on the Legislative Branch met yesterday morning at an early hour and has given approval to the insertion of the phrase, which shall be open to public inspection at all reasonable times.

THE CHAIRMAN: Does any delegate desire to speak in opposition to the amendment, or arethere any questions of the sponsor of the amendment?

Is there any further discussion? Are you ready for the question? The motion having been seconded, the Clerk will ring the quorum bell.

The question arises on Amendment No. 18. A vote Aye is a vote in favor of the amendment, a vote No is a vote against. Cast your votes.

Does any delegate wish to change his vote? Has every delegate voted?

Mr. Boyce has voted Aye. The clerk will record the vote.

There being 117 votes in the affirmative and none in the negative, the motion is carried and the amendment is adopted.

The Chair thought it said one in the negative, that is what he intended.

Delegate Sherbow, you have an amendment. Do you desire to offer it at this time?

The pages will please distribute the amendment.

This will be amendment 19.

The Clerk will read the amendment.

MR. QUILLEN: Amendment No. 19 to Committee Recommendation No. LB-2, by Delegates Sherbow and Case.

On page 5, section 3.17, Journal and Passage of Bills, in line 16 after the word "resolution" add the words: "or for the election or confirmation of any State officer."

DELEGATE CASE: I second it.

THE CHAIRMAN: The Chair recognizes Delegate Sherbow to speak to the Committee.

DELEGATE SHERBOW: Mr. Chairman and Members of the Committee.

Actually this is for clarification as much as anything else. The way the committee proposal would read there would be public sessions where votes are taken when there is either a resolution or a bill for action. Actually the General Assembly will also be voting, for example, on the election of a person chosen as a post auditor.

In addition, they will be acting in the Senate on matters dealing with confirmation of officers.

We do not, and I emphasize "not," Delegate Case and I intend to have this so construed as to prevent executive sessions where you are dealing with matters referring to individuals, their background, their past, and so on, where sometimes character assasination can sometimes take place.

This is merely to have for the public the votes, not only on bills and resolutions, but on the matters relating to confirmation of officers and election of officers. We urge the adoption of this amendment.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, I agree that this is a clarifying amendment. It may well be that the transcript might reflect this as well, but I think in the interest of clarification I would support the amendment.

THE CHAIRMAN: Is there any further discussion of the amendment?

Delegate Della.

DELEGATE DELLA: Mr. Chairman, will the sponsor yield for a question?

THE CHAIRMAN: Delegate Sherbow, do you yield?

DELEGATE SHERBOW: Yes.

DELEGATE DELLA: Will all the confirmations be in public?

DELEGATE SHERBOW: Only a vote. When you are holding public hearings there is also a reason to hold executive sessions. This, as you know, deals only with the vote itself, which I believe is the present practice now, is it not?

THE CHAIRMAN: Delegate Della.

DELEGATE DELLA: No, it is not.

While in executive session a vote is taken that is not published. Although we have a journal, the journal is somewhat sealed as to the number of votes.

It is a question that we either advise and consent as to the appointment, or we do not advise and consent.

The appointment is either rejected or confirmed, and therefore, the number of votes is never declared as far as the papers areconcerned. This is only for the protection, I think, for the appointee, because you could have a 21 or 22-20 vote, or a 21-19 vote in the Senate on the proposed appointment, and I think that might be a

reflection against the nominee if the vote was to appear.

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: I think the amendment ought to pass the procedure. In the Federal government the committee hearings may or may not be secret, I don't know. But when the time comes for the vote, the vote is made public. The people are entitled to know how the vote on the governor's nominee finally came out.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Mr. Chairman, I don't disagree with the intention of the amendment as expressed by Delegate Sherbow, but if that is its only intention, then it is redundant and unnecessary, and its inclusion may suggest that it has some other intention. If the intent is that the public shall know how members of the General Assembly vote on the election or confirmation of any officer, that would be available in the transcript and the journal which are required by section 3.17 to be published, and to be available to the public.

My problem is how Delegate Sherbow can provide for the vote in public and yet achieve the other protection

that he acknowledges is sometimes necessary, that is that the debate on the election or confirmation of an officer must of necessity, and really should, for the protection of the people involved, be in executive session, because there can well be things said there which, in fairness to the person involved, ought not to be said in public. They may be true and they may be irresponsible. I don't see how, without saying that specifically, that you can have the vote in public and foreclose debate on the vote. If the vote is in public, then any member of the Senate or the House under its present rules could explain its vote, unless something is said here that prohibits that.

I am concerned that it is not necessary to achieve the purpose of a public record of confirmation of an officer, and that putting it in may really accomplish the purpose that Delegate Shebow agrees that he does not want to accomplish, and that is an opportunity for public character assasination.

THE CHAIRMAN: Does any other delegate desire to speak in favor?

Delegate Sherbow.

DELEGATE SHERBOW: I simply want to reply to, Delegate Bamberger, and say when we spoke of the hearing, I was talking of the committee hearing. What takes place on the Floor of the House and the Senate ought to be public; if a senator and delegate are debating, that ought to be public. When he is voting, that ought to be public. The safeguard we are speaking of is when there is a committee hearing and in the committee hearing, as we all agree, there are irresponsible attacks sometimes made on outstanding citizens.

We are speaking here of the vote, and that is what this refers to, a vote on a bill, a vote on a resolution, a vote on an election of an officer, a vote on a confirmation.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Delegate Sherbow, do you yield to a question?

DELEGATE SHERBOW: Yes.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Your intent is to avoid character assasination in committee, but if a

delegate wants to assasinate a delegate, you want that public?

DELEGATE SHERBOW: I think he will be sufficiently responsible that he will not injure another delegate.

I am talking where a man is appointed to the United States Supreme Court, or as Solicitor General, or a State officer, where somebody who has had a bad time, or thinks he has, writes in a letter that is so bad that the newspaper says, when they get it, unless we were protected against libel we wouldn't handle it.

These are the kinds of things I am talking about. I don't think the members of the Senate and the House are going to be guilty of character assasination.

THE CHAIRMAN: Delegate Della.

DELEGATE DELLA: When the nominees are confirmed the Senate is meeting as a Committee of the Whole. The House has nothing to do with those appointments. It is up to the Senate.

There are times when a person is hurt, his character is hurt by such statements, that sometimes can't even be proven, and if you are going to have that in open

session, then I am afraid a lot of innocent people are going to get hurt, and you are going to deny to the State a number of qualified and decently respectable people who will refuse to havetheir names submitted to the Senate to be confirmed if it is going to be in the open.

When the Committee as a whole refuses to go along with a nominee, we then ask the governor to withdraw the name, and there is no vote taken in public, no one knows what the vote is as a committee of the whole.

So, Delegate Sherbow, I think you are hurting the individuals that may be State officers.

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: I am afraid we have gotten from what we really are talking about. All that this says is that a vote shall be taken only in public session.

If the rules of the House and Senate provide for the Senate, for example, in executive sessionthat the debate be in secret, so be it: but the vote, and this is what we are talking about, if the vote is on a bill, if it is on a resolution, if it is on the election of an officer, if it is on confirmation, the vote is all that we

are talking about, and it shall be in public session.

THE CHAIRMAN: Any further discussion?

Are you ready for the question?

Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, I would seriously hope that this amendment is approved by the Committee of the Whole here. I guess for the first time during the course of this debate I have heard some references to greenback sessions, and I suppose we are in this area of operations. But I would like to be advised, if I could, by Delegate Della or someone else, as to whether it is possible now to have a confirmation of a State officer and have that vote sealed in executive session so that it is not available to the public.

If that is possible, then I think it is a deplorable situation, and now is the time we better do something about it, with this amendment.

THE CHAIRMAN: As I understand, Delegate Della said that is not only possible, but the practice. Is that correct? Correct me if I am wrong.

DELEGATE DELLA: That is absolutely true, except

that there is a journal kept for the body itself, and the action is recorded in that journal.

THE CHAIRMAN: When you say a journal is kept for the body itself, you mean not available to the public?

DELEGATE DELLA: That is true.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: I assume what you are saying in that connection is when the vote is recorded, it is a total vote, not how people voted, as such. One of the hazards that any man that aspires to any public office has to encounter is the fact that his past is going to be put to public scrutiny. There is just no way around this, and it is not right that there should be a way around this. After all, we are looking for men of the greatest integrity and the greatest character to head up these departments, and the highest agencies of the Senate. I am not for someone getting up on the floor of the Senate and attacking someone's character. The purpose of the public body is to bring these things into public.

DELEGATE JAMES: Mr. Chairman.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: I ahppen to have a rule with me. Executive Journal: "At the end of each executive session the Executive Journal shall be turned over to the Department of Executive Reference, who shall arrange to have it printed with the regular Senate Journal for that session."

It is not true that it is completely secret. During the course of the session it is, but eventually it becomes available. It is delayed publication.

THE CHAIRMAN: Are you ready for the question?

The question arises on the adoption of Amendment 19. The Clerk will ring the quorum bell.

The question arises on the adoption of Amendment No. 19. A vote Aye is a vote in favor of the amendment. A vote No is a vote against.

Cast your votes.

DELEGATE BOYCE: Negative.

THE CHAIRMAN: Has every delegate voted? Does any delegate desire to change his vote?

The Clerk will record the vote.

Delegate Boyce is voting in the negative.

There being 102 votes in the affirmative and 24 in the negative, the motion is carried and the amendment is adopted.

The pages will distribute Amendment T.

Delegate James, I am taking Amendment T, rather than S, so you would have an opportunity to make a modification of T.

DELEGATE JAMES: I made it.

THE CHAIRMAN: Delegate Koss.

DELEGATE KOSS: I would like to rise to a point of personal privilege.

THE CHAIRMAN: State the privilege.

DELEGATE KOSS: I would like this body to recognize the presence of Mr. and Mrs. Phillip Darling, outstanding and active citizens from Baltimore, in the gallery.

THE CHAIRMAN: We are delighted to have them here. (Applause.)

THE CHAIRMAN: Amendment T will be Amendment 20. The Clerk will read the amendment.

MR. QUILLEN: Amendment No. 20 to Committee Recommendation No. LB-2, by Delegate James.

On page 5 Section 3.17, Journal and Passage of Bills, in lines 7, 8, 9, and 10 strike out the sentence beginning with the words "All final in line 7 down to and including the word "house." in line 10.

THE CHAIRMAN: The amendment having been offered by Delegate James, is there a second?

(Whereupon, the amendment was seconded.)

THE CHAIRMAN: The amendment having been seconded, the Chair recognizes Delegate James to speak to the amendment.

DELEGATE JAMES: Mr. Chairman and fellow delegates:

I would like to say that generally speaking political commentators make the criticism that big constitutions furnish unnecessary technicalities in the way of legislative procedure. The result of this is to subject legislation to all sorts of legal attacks on purely technical and procedural grounds.

I have in my hand a publication by the Citizens Council on State Legislatures, published in May of 1967, entitled "State Constitutional Provisions Affecting the

State Legislature."

DELEGATE GALLAGHER: You made your point.

DELEGATE JAMES: That was for emphasis.

Under the recommendations on page 12, the first point made is:

(1) The legislative article should express only fundamental law and omit procedural details.

Since the Constitution is supposed to embody a more basic and inferior presence, matters of less importance should be left to the discretion of the legislature so that immediate problems can be handled within the framework of the Constitution.

The last Constitution is very brief and conservative in providing the legislative procedural details. Section 12 simply provides thatthe house shall adopt its own rules of procedure, and it shall keep a journal. Section 13 sets up a very breif article reaffirming the rule that every bill shall relate to one subject, and that subject shall be described in its title.

Finally, section 14 relates to the passage of bills, saying that the legislature shall establish a

procedure for the enactment of bills, and the law then says Ayes and Nays on final passage shall be entered in the Journal.

Also it requires the entire vote of the entire membership.

The pint I am driving at asa general principal, the Constitution should be very conservative in providing procedural details. Most of this should be handled by rule.

I might say the Federal Constitution is very, very conservative in requiring procedural details.

Maryland did run into this snarl on numerous occasions. In 1949, the case of Maryland versus Lang involved a situation in which the legislative practice was not to enter into the recorded roll call how each member voted on final passage: however, there is a Constitutional provision in Maryland which reads as follows: "Each House shall keep a journal of its proceedings and cause the same to be published. The Yeas and Nays of the members on any question shall, upon any call of five members of the house, be entered on the journal."

Section 8 says, "No bill shall become law unless

it be passed by the majority of the whole house by the members elected, and on this final action the whole Yeas and Nays shall be recorded."

They did not list this vote on the changes of the bond issue, and the Court of Appeals ruled since this constitutional requirement was not technically complied with, the bill was invalid.

So the point I am making is that the courts construe these constitutional requirements procedurally very, very strictly.

Now, the amendment I am offering would eliminate the requirement that the committee vote be made part of the journal. This simply is going to mean that every bill may be subject to attack if the journal does not have the committee vote, and I assume the committee vote will mean a main committee and not a subcommittee of a standing committee. It will require a normal vote, and every bill will be established whereby the Chairman of the Committee will have to certify the committee vote with the bill, and it will have to be entered into the record.

It will mean the question of whether there was

a quorum in the committee, what the membership of the committee was, what is a quorum, whether the failure to have a majority of a quorum or a majority of all the membership voting in favor -- in other words, the committee procedure will become a matter of constitutional importance, and I submit to you that this is really an area which should be controlled by rules of the General Assembly, and that it should not be a matter which can be attacked in the court because some rule of procedure within a committee which could be reflected in the journal is not complied with.

THE CHAIRMAN: Any questions of the sponsor of the amendment?

DELEGATE GALLAGHER: Mr. Chairman.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Senator James, is it not true that when a bill receives an unfavorable committee vote that the bill generally is never reported to the full floor of either chamber, so that in effect, therefore, a great deal of action is taken in committee, namely the killing of legislation, both important and unimportant, so that in effect what is accomplished in committee is equally

as important as what is accomplished on the floor?

DELEGATE JAMES: I would say you are absolutely correct, but this would not help that situation one bit -- the procedure of holding a bill in the committee.

However, in defense of the legislative procedure I can say this to you, that the General Assembly in Maryland is not like Congress in that it is very easy to get a bill out of committee for a vote on the floor, even though there is an unfavorable report.

The Congressional policy sets up all sorts of roadblocks to having a bill come out of the committee in the face of unfavorable committee action. It may even do so in the face of an unfavorable attitude of a committee chairman.

In the General Assembly of Maryland in both houses it is very easy to get a bill on the floor, even in the face of unfavorable committee action.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Is it not equally true that the members of the General Assembly have been known not only to see to it, when they were ill-disposed toward a

bill that it might be taken up in committee when there were only a few persons present, but also on some occasions, some of the chairmen have refused to bring up the bill for consideration by the committee, so you never get an opportunity to get a vote on it?

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: I would have to answer that question by saying the committee chairman in the General Assembly of Maryland has a relatively weak position compared with the Congressional system. The majority of the committee simply can tell the committee chairman what to do in the General Assembly of Maryland, and that is an absolute fact. He may be persuasive and have certain persuasive authority, but the majority rules in those committees.

THE CHAIRMAN: Does any other delegate have questions for the sponsor of the amendment?

Delegate Koss.

DELEGATE KOSS: Delegate James, isn't it true that the committees of the General Assembly have the authority at any point to declare either an executive session or to specifically ask certain people to leave?

DELEGATE JAMES: I would say that this is true. This will still remain true.

DELEGATE KOSS: I don't know whether this is in order at the moment, but my understanding of the amendment would make it impossible for an interested citizen to know what the vote was.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: The vote on the floor is a real test, isn't it?

THE CHAIRMAN: Delegate Koss.

DELEGATE KOSS: Again, I was concerned, and I agree, it is not relevant in terms of the bills that are killed in the committee.

THE CHAIRMAN: Are there any further questions of the sponsor?

Delegate Della.

DELEGATE DELLA: Mr. Chairman, in reference to the committee --

THE CHAIRMAN: Just a second, Delegate Della. This is a period of questions to the sponsor. I will recognize you in a moment.

Are there any further questions to the sponsor?

Delegate Fornos.

DELEGATE FORNOS: Senator James, did your last session of the Senate pass a conflict of interest law?

DELEGATE JAMES: I could refuse to answer that question on the basis that it might incriminate the House.

DELEGATE FORNOS: What happened to that bill?

DELEGATE JAMES: The bill passed the Senate, but it was defeated in the House.

DELEGATE FORNOS: That never came out of the House committee, is that not right?

DELEGATE FORNOS: Well, that was due to the lack of energy on the part of the House members to see that it did get on the floor. It was a very simple procedure. I think you need 15 people to bring it up on the floor. Fifteen energetic members could have called for the vote.

THE CHAIRMAN: Your time has expired.

Is there any discussion?

Delegate Della.

DELEGATE DELLA: Mr. Chairman, and Ladies

and Gentlemen:

I think from the colloquy that has taken place here this morning that the action of the committee on final votes considering bills is extremely significant, and equally as significant as what takes place on the floor of the General Assembly, because one of the functions of the General Assembly, unfortunately or fortunately, depending upon your point of view, is to kill legislation as well as to pass legislation.

I think it is quite obvious in the final vote on the committee then when bills are killed is certainly equally as significant as the final vote on the floor of either chamber when bills are killed or passed. It is just a question of when the funeral takes place.

If you are interested in knowing who the pall bearers are, it seems that it doesn't make much difference where the ceremony takes place, upstairs or downstairs.

It seems to me in the interest of responsibility of the General Assembly, in the interest of seeing to it that the public knows who is responsible for what happens in the General Assembly, that there is every argument for

the inclusion of the sentence which the James amendment would seek to delete, and I submit to you that we are not trying to set up blocks or impediments, or throw the road open or close it with technical amendment. We want good visibility and continued responsibility.

I think the elimination of this particular sentence would be most unfortunate. We know the significance of the committee votes in Maryland, and I submit to you that we have a duty to see to it that the committee votes are recorded so that the public notes who stood up and who didn't when the chips were down.

I urge you to defeat the amendment.

THE CHAIRMAN: Does any delegate desire to speak in favor of the amendment?

DELEGATE STORM: Mr. Chairman, I have a question.

THE CHAIRMAN: To whom is it addressed?

DELEGATE STORM: Maybe you can answer it. If you can't, Delegate Gallagher could, if he has time.

Did the committee consider whether or not -- you raised this question yesterday, I think, and it seems very important to me -- did the committee consider whether

or not each of these sentences would have to be complied with strictly or the bill would fail, or be considered unconstitutional? Is each of these a constitutional requirement for a valid bill?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, and Ladies and Gentlemen, the committee did not specifically consider each sentence in the light of what the failure to carry out the duties of each sentence would do to the legislature itself. As I said yesterday, the committee was not homicidally bent, and we are not anxious, it was never our intention to have bills declared invalid as a result of failure to follow any particular mandate in this sentence. The Chair pointed out yesterday the existence of the Redwood case, which I read last night. The Court of Appeals already decided with respect to one sentence in section 3.17, which we carried over in the draft from the old Constitution, that the failure to file the recordings of the Yeas and Nays in the Journal would have the effect and did have the effect in the public school construction bond case of invalidating the legislation.

However, I do not presume to say and would not urge what the legal effect of the failure would be. I would simply say that we tried to impose a duty upon the General Assembly and would leave to the courts the consequences of the failure to follow the duty.

THE CHAIRMAN: Is there any further question, Delegate Storm?

DELEGATE STORM: One more thing:

Mr. Gallagher, if a clerk made a mistake in recording the committee votes, or if some other mistake were made in the committee records, would this perhaps make a bond issue invalid?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: All I would say to that is in the Redwood versus Lane case which I referred to, a clerk did make a mistake. He pulled down what he thought was a senate bill, which was in fact the same number, but it was the house bill.

As a result of the handling of the matter physically, there was actually no Yea and Nay vote entered in the journal with respect to this case, because the printer

thought he was correcting an error, and he made a mistake in the way he did it. There is no way that I know of that we can guard against human errors and human failures.

The lower court said if you had a clerk who was deliberately out to sabotage you, you would be very much at his mercy. But nevertheless, the Court of Appeals in the Redwood case found that the law had not been complied with, and in that particular respect it called a validation of the fact.

I do not urge, and the committee does not urge that particular effect upon the failure to carry out the provisions herein. I would say we don't designedly point to that result. Again, it would be the legal interpretation of the effects of the failure to carry out the various sentence requirements.

THE CHAIRMAN: Delegate Storm.

DELEGATE STORM: Thank you, Delegate Gallagher. Then I would like to say one word in support of Delegate James' proposal. It frightens me that a clerk could frustrate the entire will, the will of the entire legislature by a mistake, whether it was innocent or

otherwise.

I think it is a mistake for us to be so detailed in our requirements of record keeping, even in committee, because sometimes although our committee has been operated with great efficiency and accuracy, it has been very confusing, and I wouldn't swear that each of the votes that we have taken were absolutely correct -- I mean correctly recorded; so I really think we are treading on dangerous ground here, and I do suggest that this is a salutory amendment.

THE CHAIRMAN: The Chair is going to interrupt the debate at this time and follow the unusual course of suggesting a recess in the middle of debate. Part of the reason, but only part of it, is that this particular section is so very important, the proper interpretation, that the statements made in the course of debate will have a bearing on that, and I would like the debate not to be hurried, and to have every opportunity for the committee chairman to state quite clearly what the intent of the committee is. For that reason, the Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. Chairman, I move that the Committee of the Whole rise and report that it has not yet concluded consideration of Committee Recommendation LB-2.

THE CHAIRMAN: The Clerk will ring the quorum bell, please.

Is there a second?

(Whereupon, the motion was seconded.)

THE CHAIRMAN: All in favor of the motion, signify by saying Aye; contrary, No.

The Ayes have it, and it is so ordered.

(Whereupon, at 12:30 p.m., the Committee of the Whole rose, and the Convention reconvened.)

(The mace was replaced by the Sergeant at Arms.)

THE PRESIDENT: The Convention will please come to order.

On behalf of the Committee of the Whole, the Chair reports that the Committee has had under consideration Committee Recommendation LB-2, that it still has it under consideration, and it desires leave to sit again.

The Chair at this time would like to make a very

important statement to the Convention.

The officers of the Convention and the Chairman of the Committee on Calendar and Agenda have, as I am sure all of you realize, kept very closely in touch with the progress of the Convention and the status of the work of the Convention has been the subject of practically daily conversation and concern among us.

Unless we sit on Sundays, the calendar tells us that there are available only eight more days until December 12. If we sit on Sunday we would have 10 days.

I don't think anyone could possibly suggest that this Convention could work harder or could engage in more continuous, intense consideration of the matters before it than it has been doing, not merely in this past week, but for many weeks past.

We have accomplished a tremendous amount, but a great deal more remains to be done.

Consideration has been given to the possibility of extending or increasing the number of night sessions. All of us feel that this is undesirable for two reasons: There is a limit to human capacity, and this work requiring

the kind of concentration it does is very exhausting; and secondly, there is work to be done other than that on the floor of the Convention, and if we had any more night sessions, this would become utterly impossible.

For these reasons, the Chairman of the Committee on Calendar and Agenda suggests at the appropriate time that we not sit on Sundays, that we convene on Monday as we have in the past, at 2:00, and have a Monday evening session, and that we have one more, rather than two more evening sessions next week, probably on Thursday.

In other words, we will sit in the evenings on Mondays and Thursdays, rather than Monday, Wednesday, and Friday.

Under these circumstances, the Chair will request the Committee on Calendar and Agenda to consider immediately and to report to this Convention on Monday its recommendations with respect to Resolution 19, calling for the extension of the sessions of this Convention until January 12. There is no alternative available to the Convention, other than to extend the session for the full time, because we have only one opportunity to extend.

There is very strong likelihood that we will not need the full time, but the chairman necessarily hopes that we can conclude consideration of all committee recommendations by the 12 of December, take a brief recess so that the committees, the staff, and particularly the Committee on Style can very thoroughly and quietly review everything that has been done, and then have the Convention come back again into session for a few days to correct any errors that may have been made, and to adopt the report, finally.

The Chair and your officers, and the Chairman of the Committee on Calendar and Agenda believe with the kind of work that we have been having in the recent weeks that it will be possible to follow this kind of schedule and still have a sine die adjournment before Christmas. The Chair therefore requests the Committee on Calendar and Agenda to arrange a meeting at such time as necessary to enable it to present a report on Resolution 19 to the Convention at its session on Monday afternoon.

The Chair recognizes Delegate Powers.

Before recognizing Delegate Powers, are there

any announcements by committee chairmen that might be made?

DELEGATE BARD: Very hurriedly I would like to right the introduction to read that the Darlings are the Darlings of Baltimore County, not City.

THE PRESIDENT: Delegate Dulany.

DELEGATE DULANY: Mr. President, there will be a meeting of the Committee on Public Information at 12:15 Monday.

THE PRESIDENT: Any further announcements by committee chairmen?

All delegates present now who were not present this morning may indicate their presence on the supplemental roll call.

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. Chairman, I move we recess until 2:00.

(Whereupon, the motion was seconded.)

THE PRESIDENT: All in favor, signify by saying Aye; contrary, No. The ayes have it; so ordered.

(Whereupon, at 12:40 p.m., the Convention recessed, to reconvene at 2:00 p.m. of the same day.)

A F T E R N O O N S E S S I O N

December 2, 1967 - 2:05 p.m.

THE PRESIDENT: The Sergeant at Arms will clear the aisles and close the doors.

The Convention will please come to order.

Roll call.

(Whereupon the roll was called.)

THE PRESIDENT: Has every Delegate answered roll call?

Has every Delegate now answered roll call?

The Clerk will record the roll call.

There being a quorum present, the Convention is in session.

Motions and Resolutions.

THE PRESIDENT: Resolution Number 24. The Clerk will read the Resolution.

MR. QUILLEN: Resolution Number 24, by the Committee on Local Government, M. Peter Moser, Chairman:

A Resolution urging that the Governor promptly establish a commission on local government.

THE PRESIDENT: Resolution Number 24 is referred

to the Committee on Local Government.

Any other Motions or Resolutions?

The Chair recognizes Delegate Powers.

DELEGATE CLAGETT: Mr. President.

THE PRESIDENT: Delegate Clagett.

DELEGATE CLAGETT: Mr. President, I would like to rise to a point of personal privilege.

THE PRESIDENT: State the privilege.

DELEGATE CLAGETT: To recognize presence in the gallery today a distinguished member of the Prince Georges County Bar Association, with his very, very lovely wife, Joseph A. DePaul, Esquire, and his wife, Corrine. Mr. DePaul is also the law partner of Delegate Willoner.

THE PRESIDENT: Delighted to have them. (Applause)

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. President, I move the Convention resolve itself into the Committee of the Whole for the purpose of resuming consideration of the General Orders of the Day.

THE PRESIDENT: Second?

(Whereupon, the Motion was seconded.)

THE PRESIDENT: All in favor signify by saying Aye, contrary No. The Ayes have it. It is so ordered.

The Committee of the Whole will please come to order.

(The mace was removed by the Sergeant at Arms.)

(Whereupon, at 2:10 p.m. the Convention resolved itself into the Committee of the Whole.)

THE CHAIRMAN: Under the General Orders, we have under consideration Committee Recommendation Number LB-2, and particularly Amendment 20.

Any other Delegate desire to speak in opposition to the amendment?

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, Ladies and Gentlemen, I should like to ask the permission of the Chair under the appropriate rule to allow the Committee on the Legislative Branch to retire to the lounge, if it is clear, to take up the consideration of the amendment before us in the section, Mr. Chairman.

THE CHAIRMAN: The Chair suggests that you retire to the President's office for a more cloistered

consideration. Delegate Gallagher, is this a very brief matter?

DELEGATE GALLAGHER: Very brief.

THE CHAIRMAN: The Convention will just mark time for a few minutes. Delegate Della.

DELEGATE DELLA: Is that only the Majority of the Committee?

THE CHAIRMAN: No, the entire Committee.

Delegate Schneider.

DELEGATE SCHNEIDER: Mr. Chairman, I rise for personal privilege to say the score is ten to nothing, Navy.

THE CHAIRMAN: The Clerk will ring the quorum bell, please.

The Committee of the Whole will please come to order.

Some partisan person who may or may not be a Member of the Committee of the Whole has placed on the desk of the Chairman hieroglyphics, I haven't the remotest idea what it means but it may mean something to you, so I will read it, as near as I can make out it says, "Navy scored again, 17 to nothing".

The Chair recognizes Delegate Gallagher for the purpose of making a statement with respect to Section 3.17.

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, Ladies and Gentlemen of the Committee of the Whole, the Committee on the Legislative Branch has met and has considered in detail and, sentence by sentence, the language of Section 3.17, titled, Journal and Passage of Bills, and I am directed to say --

THE CHAIRMAN: Just a second.

Delegate Penniman, may I call your attention to this announcement? It will have a bearing on the decisions of the Committee on Style.

DELEGATE GALLAGHER: Mr. Chairman, I am directed to say that I am in a motion to state the interpretation and intention which the Legislative Branch Committee intended shall be made with respect to each of these sentences, which I will now take seriatim.

Each House of the General Assembly shall keep a current daily journal of its proceedings, which shall be open to public inspection at all reasonable times, and a

transcript of its debates, end of quote.

It is the intention of the Committee on the Legislative Branch that this shall be a mandatory provision, but that substantial compliance shall be sufficient to meet its terms.

With respect to the second sentence, the daily journal shall be published as soon as practicable and the transcript shall be available to the public, end of quote.

It is the intention and interprepation of the Committee on the Legislative Branch that this sentence shall be met, if it is substantially complied with, and is considered to be mandatory.

With respect to the third sentence, beginning, quote, All final Committee votes on all bills in both Houses shall be entered by individual reported vote in the daily journal of the appropriate House, end of quote.

It is the intention of the Committee that this sentence shall be complied with by substantial compliance, and the sentence shall be considered mandatory.

Continuing, quote, "No bill shall be enacted nor shall a resolution requiring the action of both Houses be

adopt ed unless it is passed in each House by Majority of all the Members of that House". End of quote.

It is the intention and interpretation of the Committee on the Legislative Branch that this sentence must be literally complied with and that it is mandatory.

Next sentence, quote, "A vote in joint session or by either House on any bill or resolution or for the election or confirmation of any State officer shall be taken only in public session". End of quote.

It is the intention and interpretation of the Committee on the Legislative Branch that this sentence shall be complied with when there is substantial compliance, and the sentence is considered mandatory.

Finally, "On final passage of a bill, including a bill proposing a constitutional amendment or resolution, the vote cast by each Member shall be recorded in the journal of the House of which he is a Member".

It is the intention and interpretation of the Committee on the Legislative Branch that this sentence shall be complied with when it is substantially complied with or met and that it is mandatory. In making this interpretation

of the last sentence, the Committee on the Legislative Branch is cognizant of the fact that it is specifically overruling and overriding the opinion arrived at in Redwood versus Lane 69 Atlantic Second 907.

THE CHAIRMAN: Are there any questions of the Committee Chairman with respect to the statement just made?

Delegate Hardwicke.

DELEGATE HARDWICKE: Mr. Chairman.

THE CHAIRMAN: Delegate Gallagher, do you yield to a question?

DELEGATE GALLAGHER: Yes.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: Mr. Chairman, in Section 3.18, conflict of interest, you have mandated to the legislature that they by law provide for a code of ethics.

Would it not be feasible, or rather, did you give consideration to mandating to the legislature that they do the things that you have provided for in 3.17, but that you make them do it by rule, and if they do it by rule and it is there on rule that is involved and not a constitutional rule, would that not achieve the same purpose, but with greater

clarity than to rely upon this phrase, "substantial compliance"?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I think it would be the feeling of our Committee, Delgate Hardwicke, that the items covered by Section 3.17 are of such significance to the proper operation of the General Assembly and the interests of the public that although they may be technical and procedural, that they are sufficiently important to spell out in the Constitution.

Now, it may well be that in order to implement the constitutional language that there will be required further rules, and certainly, we would contemplate that the General Assembly could and would adopt such rules, but to the extent that we desire to cover specific areas, we believe that we would prefer and we do prefer to state what the practice shall be.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: I only raise the question as to whether you really mean what you say when you say that it is that important when you permit substantial compliance to

be construed to be actual compliance.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Well, we mean what we say, but at the same time, we are not anxious to have some slight deviation which does not impair the object of the constitutional language set aside and caused to be declared invalid and otherwise valid enactment of the General Assembly.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: I would address a question to the Chairman of the Committee.

THE CHAIRMAN: Delegate Gallagher, do you yield to a question?

DELEGATE GALLAGHER: Yes.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Mr. Chairman, in the sentence on lines 15 to 17, I may have misunderstood you but that sentence reads, "A vote in joint session, or by either House on any bill or resolution, or for the election or confirmation of any State Office shall be taken only in public session", and did I understand you to say that it is

the recommendation of the Committee that that be mandatory and that there be literal compliance with it?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: If I did not say it be mandatory and that there should be a literal compliance, I should have said because it was the intention of the Committee that the vote in public session by literally complied with. Thank you.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Are we establishing a new legal concept, mandatory, substantial compliance?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: To the best of our ability we are establishing a concept, and if it is new, so be it.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, just let me say in defense of the Committee's action here, that this action was taken to eliminate one of the arguments that Senator James has raised consistently with respect to the Eastland case.

Now, if that situation should occur again, where

through some oversight of some clerk, beyond the control of the legislative body's legislative leaders that would not invalidate the legislation. We assume this is what he was after. We think this is the best solution.

THE CHAIRMAN: Any further questions of the Committee Chairman?

If not, we will proceed with debate on Amendment Number 20.

Does any Delegate desire to speak in favor of the Amendment?

Delegate Barrick.

DELEGATE BARRICK: Mr. Chairman, it seems to me that this is a very unusual procedure to write in a Constitution.

I don't profess to be an expert in constitutional writing, but this, to me, is getting almost to the point where it is ridiculous. I quite frankly can't follow everything Chairman Gallagher has said, and in order to intelligently vote on this, it seems to me we would have to have a copy of this in order to determine what these various sections will mean.

I suggest that we support Senator James' motion and take this paragraph, the sentence out of the paragraph 3.17, and we solve all these problems.

THE CHAIRMAN: Any Delegate desire to speak in opposition to the amendment?

Delegate Gill.

DELEGATE GILL: I wish to speak in opposition to the amendment.

THE CHAIRMAN: Proceed.

DELEGATE GILL: I think one of the main reasons we all are down here, two of the main reasons we are all down here, one, to strengthen the legislature, speaking of the legislature, one, to strengthen the legislature itself, and second, to make democracy a great democracy closer to the people and one way to bring it closer to the people is to let them have a part in it. So often, when major committees decide wither or not to allow a piece of legislation to come out of Committee, a Bill to come out of Committee favorably or unfavorably, nobody knows who voted for what. People concerned are not visible, they are not responsible, the people who are interested in whatever the

issue is have no way of going to their elected representatives and presenting their point of view and trying to get support for it, and it isn't until it comes on the floor, if it does get to the floor, that they have a chance to work for that legislation.

If they knew ahead of time who was voting for it or against it, they would be able to contact them in advance and try to work for it.

I think that is one reason why so many people are not interested in what is going on in the legislature, because the ones who vote for or against the bills, the action is in secret.

If there is anything that we can do to help the people to become a part of this democratic process, it is to hold the elected officials responsible, and through our research, we found that more people, I mean more legislation is defeated in Committee than on the floor, and it is defeated in Committee if it is defeated in committee just a few people defeat it. If few people have that much power why shouldn't the people as a whole know who the people are who are defeating since they are representing them. I think

it very important that the votes of the major Committees, I don't mean the subcommittees, like Senator James mentioned, be done, or be recorded so that everybody will know who is voting for, who is voting against and so that they can be held responsible for it.

THE CHAIRMAN: Your time has expired.

DELEGATE GILL: People will then have a chance to take a part in this democratic process.

I hope you will vote against the amendment.

THE CHAIRMAN: The Chair desires to interrupt the debate to make this suggestion:

The statements just made by the Chairman of the Committee as to the interpretation of Section 3.17, while clear as to the intent to the Committee, may raise considerable question in construction of the Constitution.

The Chair has suggested to the Chairman of the Committee that consideration be given following the suggestion of Delegate Hardwicke that the portions of this section which the Committee Chairman referred to as those to which substantial compliance would be sufficient, be put in a separate section and perhaps be phrased in such a

way as by a direction to include it in the rules as to make this intent clear, and leave in this section only those explicit provisions which the Committee intends to be not only mandatory but as to which literal compliance is necessary.

The Chairman of the Committee would like to try his hand at drafting such an amendment. I, therefore, suggest that we postpone for the moment consideration, further consideration of Sections 3.17 and 3.18, and lay aside Amendment 20, and proceed to a consideration of the Minority Report on Section 3.18, and by the time we have concluded, I think the Committee will be able to make a suggestion as to Section 3.17.

Delegate Storm.

DELEGATE STORM: Mr. Chairman, I am sure that you have given this problem a good deal of thought and probably have some suggestions as to how this will be handled.

I have a little trouble over how wide a spread the remarks that are made, like we have been putting on the record of the various Committees' intentions in adopting certain language, how wide spread will these remarks be

printed and distributed? Will the average attorney be able to get them inexpensively? Will they be furnished to all? Will the new Constitution be footnoted with things like this?

Would you explain that?

THE CHAIRMAN: I would hope that the transcripts of the debates which this Convention is directed to have published will be published in printed volume form, and be readily available, certainly in all law libraries. It would certainly be available to lawyers, if there were sufficient demand. I have no doubt that it will in time prove to be the most important volume for any lawyer who has a constitutional problem to solve. A short answer to your question is that, pursuant to the enabling act, plans will be made to publish the debates.

Delegate Henderson.

DELEGATE HENDERSON: I am having a little difficulty --

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: I merely suggest this to the Chairman. I am having a little difficulty with the words,

"substantial compliance". If the Constitution directs something to be done and it isn't done, I doubt whether that anything short of having this done could be compliance at all. On the other hand, if it is simply a clerical error that he has in mind, something which you might say that would be oversight, might be substantial compliance, but it is not a very happy phrase and I have a little difficulty with it.

THE CHAIRMAN: That is the difficulty that caused the Chairman of the Committee to confer with the Chair about the matter and I think we can avoid the use of that term.

Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, I don't want to prolong this postponement of this section, nevertheless the postponement will actually expedite the work of this Convention, but I am concerned with the suggestion by the Chair and the suggestion of Delegate Hardwicke because he related it to what in effect is proposed by the Committee in Section 3.18 that we have already gone through in other sections of the Committee's reports on mandating the

legislature onto a certain thing. It has been clear from the testimony here and it is clear in the Court proceedings that if the legislature should decide not to do those things, there is no mandamus proceedings to force the legislature to do it.

Now, as I understand the Delegate's suggestion, it is that we do the same thing here with respect to these provisions so to do it by rule, but if the fact they do not do it, then there is no kind of recourse to force them to do it. I think that would leave us in a procedure that would be entirely from what the Majority of the Committee has recommended, so I would like to get some clarification of what the Chair has in mind.

THE CHAIRMAN: The Chair's principal suggestion was to separate in two sections the portions which the Committee has indicated quite clearly are not merely mandatory, but as to which they expect literal compliance, so that there would be no question as to these. Have in a separate section the other portions of the section, as to something less than literal compliance might be possible or to put it another way, that failure to have literal

compliance would not necessarily envalidate the legislation.

The Chair merely suggested that Delegate Hardwicke's suggestion might be one way of doing this. I did not mean to indicate that Delegate Gallagher had agreed that that would be the way to do it. The only thing he has agreed to do is to try to separate the two matters into two separate sections, and in some way to indicate what difference there may be between them. This may prove to be impossible. We will have to see.

Delegate Gleason.

DELEGATE GLEASON: Just let me conclude by commenting, Mr. Chairman, that this kind of dialogue and this kind of procedure, I think we are in danger of losing the entire section. There was certainly no confusion in our mind as to what we intended to do and I think the majority of the Delegates would have understood it.

THE CHAIRMAN: Delegate Barrick.

DELEGATE BARRICK: Mr. Chairman, I would like to suggest that possibly if we voted on this amendment that has been offered, we would get the consensus of the Committee, and it might not be necessary for Mr. Gallagher to retire.

THE CHAIRMAN: Let the Chair say, the suggestion he made was merely a suggestion and can be carried out only in the absence of objection. If any Delegate desires to proceed with the consideration of Amendment Number 20, we shall do so.

Delegate Gallagher.

DELEGATE GALLAGHER: I would hope, Mr. Chairman, that the Ladies and Gentlemen would give us an opportunity to see if we can't work this out to our complete and mutual satisfaction.

THE CHAIRMAN: Delegate James, the amendment is your amendment. Would you indicate your disposition?

Would you be willing to have it laid aside for the moment and consideration given to Section 3.18 and then come back to this?

DELEGATE JAMES: Well, I don't like to be hard to get along with, but I would like to have a vote on this.

THE CHAIRMAN: Very well.

Any further discussion?

Delegate Della.

DELEGATE DELLA: Mr. Chairman, this particular

sentence, that the Committee has adopted all final Committee votes on all bills, Mr. Chairman, I don't know how that could be even carried out.

Now, if a bill is sent to a Committee, you only need three signatures in the Senate to bring it out. Now, if you can't get three signatures on a bill that is in a Committee with an unfavorable report, Lord help the bill.

Now, in the House, to recall a bill from a Committee, that requires 15 signatures. I think we are getting into serious deep water, especially when, or if you consider bonds.

I don't know whether this particular phrase requires the Committee to have a journal and whether those votes must be recorded in that journal of that Committee, or when the Chairman must report that a Committee had acted on a bill which they may have voted unfavorable today, that they can reconsider tomorrow and bring it out with a favorable report. What I think you are doing is littering, frankly filling up the journal of that particular House with a lot of reports that may be changed from one day to another, and then I come to the responsibility of the Chairman himself.

When shall he report that a Committee voted unfavorably? The bill is never in the chamber at the time unless the bill is brought before the chamber with an unfavorable report, and then there is a vote taken, and that vote is recorded.

Now, if a bill is introduced and the sponsor nimself is not interested in bringing the bill before the chamber for a vote, he wants it killed and he wants it killed in that Committee, because probably he is embarrassed that he even introduced the bill.

Now, are you going to embarrass him by requiring the Chairman of the Committee to bring a bill out and say that there was no vote in the Committee for a bill that was reported unfavorable?

THE CHAIRMAN: You have one-half minute, Delegate Della.

DELEGATE DELLA: I think you are just filling up this Constitution that we are working on with a lot of words that can't be enforced. I think the amendment will benefit this section of the Constitution that we are trying to adopt.

THE CHAIRMAN: Any other Delegate desire to speak in opposition?

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, Ladies and Gentlemen, you would think that the General Assembly of Maryland was dealing with jelly beans instead of dollars.

We are running a billion dollar operation here in the State of Maryland and I am sorry about anyone's embarrassment, but I think what we are really interested in is public advisability and responsibility on the part of the General Assembly. I don't think it is too much trouble for a Committee Chairman to keep a record of votes, and I think when he thinks he is taking a final vote and it is considered to be final that it is not too much difficulty to see that that information is transmitted to the proper parties.

The one thing seems certain down here and that is when you want to change any old way that they have done it for years and years and years, you suddenly have everyone's back up and that is most unfortunate. I suppose that what we have today was once considered to be theoretical, new, unsatisfactory. Now it is tradition bound, it has ivy on it. Nobody wants to touch it. I say if you want

responsibility to be placed, if you want the General Assembly to know that it is going to be scrutinized and viewed publicly, that this is the way to do it. I think it is important, and it makes no sense at all to require Yea and Nay vote on the floor when you kill a bill and not to require it in Committee. The effect is exactly the same and I think this is important enought in this kind of an operation, with intelligent people, and with the staff that they are going to have, to see to it that we are able to give the public the information it deserves.

I would urge you to defeat the amendment.

THE CHAIRMAN: Any other Delegate desire to speak in favor of the amendment?

Delegate Hardwick.

DELEGATE HARDWICK: Mr. Chairman, Ladies and Gentlemen of the Committee, I regret that the argument is in terms of the old versus the new. If we vote to keep this sentence in 3.17, we are voting to have mandatory substantial compliance, whatever that is, and I am very much in favor of the concept. It simply is not a proper provision for this State Constitution. It is a proper

provision for a rule of the legislature.

Now, the Chairman has indicated that he is willing to set it up, either as a rule, or something which will be, or have a clear legal concept but if you leave it in 3.17 as it is, it is not going to have any legal concept that we recognize in today's law. Consequently, I urge you to vote for the amendment, but with the understanding that the status of the concept can be clarified, so if we go for the amendment and let them clarify it so that we don't nave mandatory substantial compliance, we will accomplish what he wants, but we won't clutter up the Constitution with something that doesn't mean anything.

THE CHAIRMAN: Any Delegate desire to speak in opposition?

Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, after listening a little bit more to this debate, I am more convinced than ever that the purpose of the movers of this amendment is to eliminate from Section 3.17 not only this provision but three or four other provisions that are added in there.

There isn't the slightest doubt in my mind as to

what the meaning of this section is. It is in there for a purpose. It is mandatory. They shall do it. But if in fact, due to a clerical error on the part of some assistant, some mistake occurs, we don't have to stop a billion dollar program like they did in the Redland's case. This is the point Senator James has raised. The Committee in good faith went out and resolved the issue. It is mandatory. It means substantial compliance. There isn't a reason in the world that any judge sitting on the Circuit Court would be confused about it at all. There are other sections in here, not only mandatory but literal like recording the votes. There isn't any question about those but the fact the argument for the proponents of the amendment is simply this: That they don't think that these matters should be in the Constitution. They should be matters of rules but when they get back to adopting the rules you won't find them in the rules. I urge you to oppose this amendment.

THE CHAIRMAN: Delegate Storm.

DELEGATE STORM: Mr. Chairman, I would like to speak in favor of this amendment. You know the last meeting of the legislature was highly complimented as being one of

tremendous ability and foresight.

I am sure that as population changes are reflected in redistricting and more and more people come in from the enlightened sections of the State, they will be wanting to do tnese things on their own and if you would just publish this part of the debate and see that the legislature gets it, we could leave out all of this business tnat we are sticking in here to cause trouble and you will be giving them your considered opinion, and I think there is no one here who disagrees with many of the objectives which you have, and I think we can rely, since we have strengthened the legislative branch of our government so beautifully, and since we have expressed our confidence and approval of their recent actions and can expect wonderful things from them in the future, let's leave it up to them to follow right as we have laid it down in this debate for them to follow. I think they can do this by rule. I think they will do this by rule.

THE CHAIRMAN: Are you ready for the question?

Delegate Boyce.

DELEGATE BOYCE: Just one statement, Mr. President.

I think it is very important to all of us here, we have now agreed to give these legislators a great deal higher salary. WX have now tried to give them advisability, and I don't think it is up to us now to let them be permitted in the future to duck their vote, and so that the public doesn't know it. Let's turn this amendment down. I don't like a lot of garbage in the Constitution either. I want less and less words but it may be important and it seems to me it has gotten more important as the day has worn on to vote this down.

THE CHAIRMAN: Are you ready for the question?

The question arises on the adoption of Amendment Number 20. The Clerk will ring the quorum bell. A vote Aye is a vote in favor of the amendment. A vote No is a vote against. Cast your vote.

Has every Delegate voted? Does any Delegate desire to change his vote?

Mr. Boyce votes No. The Clerk will record the vote.

THE CHAIRMAN: There being 50 votes in the affirmative and 69 in the negative, the motion fails. The

amendment is rejected.

Delegate Clagett.

DELEGATE CLAGETT: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: Delgate Clagett.

DELEGATE CLAGETT: The Committee will still continue its efforts to come up with a compromise?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: We will be only too happy to.

DELEGATE BOROM: Mr. Chairman.

THE CHAIRMAN: Delegate Borom.

DELEGATE BOROM: For the record, I made an error in my switch that time. I meant to vote against the record.

THE CHAIRMAN: Let the record be corrected to show that Delegate Borom's vote was against and not for. That changes the total, there being 49 votes in the affirmative and 70 in the negative.

Delegate James, do you desire to offer your Amendment "S" ?

DELEGATE JAMES: Yes.

THE CHAIRMAN: The Pages will distribute Amendment "S". This will be Amendment Number 21.

For what purpose does Delegate Wiedemeyer rise?

DELEGATE WIEDEMEYER: Mr. President, I wanted to ask the Chairman of the Committee a question for the record.

I thought that when garbage was referred to that that provision in the Constitution that Delegate Case sought to strike was pure garbage and I had no idea but what the amendment would not prevail, but since it has prevailed and it mentions the Committees, I wonder if the Chairman would state for the record whether or not that includes the vote on subcommittees and subcommittees of subcommittees.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: You said the amendment prevailed. The amendment had not prevailed.

DELEGATE WIEDEMEYER: I meant to say I thought the amendment would prevail, and I did not request to speak on it before. Now, since the amendment is lost, and the garbage is still in the Constitution, I think it ought to be further explained.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: This is a highly indignant position I find myself in but I would say, Delegate Wiedemeyer, that it is not the intention of the Committee that this particular section shall apply to votes of the subcommittee but only committees themselves.

THE CHAIRMAN: For what purpose does Delegate Wheatley rise?

DELEGATE WHEATLEY: I would like to further pursue the question raised by Delegate Wiedemeyer with Delegate Gallagher.

THE CHAIRMAN: State the question.

DELEGATE WHEATLEY: Would it not be true then, Mr. Chairman, that subcommittees then could handle these issues that we are so interested in seeing visible and never get to a full committee vote and thwart it; the whole thing is, the legislature is inclined to be of that frame of mind.

THE CHAIRMAN: That is hardly a question intended for clarification, I would say, Delegate Wheatley. That is debate.

DELEGATE WHEATLEY: Mr. Chairman, I think the intent stated by the Committee was to give advisability and as a result of the question --

THE CHAIRMAN: That may be and your question would have been proper while the amendment was under discussion but I say that I hardly think this is proper now. It is a matter of clarification. I think it is a continuation of debate on the amendment.

Delegate Wheatley.

DELEGATE WHEATLEY: Mr. Chairman, I was under the impression the Committee intended to work out a compromise on this and, therefore, I would suggest that any comment in order of compromise would be in order.

THE CHAIRMAN: Make your suggestion to the Committee. I don't want to prolong the session by further colloquy between the Chairman and the Delegates.

Delegate Wheatley.

DELEGATE WHEATLEY: Mr. Chairman, my suggestion is that if we are to be consistent in advisability, as the suggestion of the Committee is before us, that the answer of Delegate Gallagher to Delegate Wiedemeyer suggests there

are many devious ways by which the legislature, if it chooses to do so, can avoid the advisability sought by this provision.

THE CHAIRMAN: Please destroy the amendment that has just been distributed marked S. Delegate James tells me he has had it reprinted.

Will the pages please distribute the amendment marked A. This will be Amendment 21.

Any delegates who have not received a copy of the amendment please indicate to the pages.

For what purpose does Delegate Case rise?

DELEGATE CASE: Mr. Chairman, I have, first, a small statement, then a question to Delegate Gallagher that goes to the whole subject matter that we are discussing here this afternoon and I wonder if he would yield.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Yes, Mr. Chairman.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Delegate Gallagher, with the greatest respect for your observations, I think we are not only discussing here the question of legislative visibility, although I admit that that is one facet of it, but I think the deeper issue here is the Constitutional prerequisites which must be met before a bill becomes

a law finally.

This goes to the heart of these subjects, and the leading case on this subject has been discussed over and over, the Redwood Case, and it is my recollection that in the Court of Appeals, the state in that case was represented by Chief Judge HallHammond, and Circuit Court Judge Harrison L. Winters, who is the highest Federal Court judge we have in the state, and I would like to ask you so that you can put it on the record, who was the counsel for the taxpayer in that case who won the case and started all this mess in the first place?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: As Delegate Case will know, from the copy of the case which I handed to him a few minutes ago, the counsel was Mr. Robert Thomas. Would you also like to know the name of his co-counsel?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: I think in the parlance of some of the larger firms in Baltimore, they are called associates.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Thomas' associate was then a rising young lawyer by the name of H. Vernon Eney.

Mr. President, you don't want to ask me anything else about that case, do you?

THE CHAIRMAN: Amendment Number 21. The Clerk will read the amendment.

MR. QUILLEN: Amendment Number 21 to Committee Recommendation Number LB-2 by Delegate James.

On page 5, Section 3.17 Journal and Passage of Bills in lines 4 and 5 strike out the words "and a transcript of its debates"; and in line 6 strike out the words "the transcript" and insert in lieu thereof the word "it".

THE CHAIRMAN: The amendment is submitted by Delegate James. Is there a second?

DELEGATE BENNETT: Second.

THE CHAIRMAN: The amendment having been seconded, the Chair recognizes Delegate James to speak to the amendment.

DELEGATE JAMES: Mr. Chairman, fellow delegates, I don't wish to prolong this matter. I would simply like

to reiterate once again that we are violating fundamental Constitutional principals here in becoming so detailed, in providing for the legislative procedure.

No outstanding Constitutional authorities would agree that you must provide all of this procedural detail for the passage of bills.

Now, Section 3.17 raises very seriously the question of providing that a transcript of the debates must be maintained as a Constitutional matter. I interpret that as mandatory and when something is mandatory, there is no discretion whatsoever, so that if you are depending upon mechanical equipment for recording of the debates, and mechanical equipment -- and if the mechanical equipment doesn't work, to your knowledge, or if you are depending upon stenographic transcript, and the stenographer loses his notes, a very serious legal question arises as to whether you have the type of a record which would sustain the legality of any legislative proceedings which might have been taken.

Now, I checked the Federal Constitution and I found no such requirements as we have here. The Federal

Constitution, which we will note for brevity and which we certainly here have not in any manner succeeded in following, says, each house shall keep a journal of its proceedings and from time to time publish the same, excepting such parts as ir their judgment require secrecy, and the yeas and nays of the members of either house on any question are at the desire of one-fifth of those present to be entered on the journal; so there is no requirement really for entry of the journal in the record of the full house of the Federal Congress.

The Federal Congress, of course, has unlimited functions, which is an area where money means nothing, because it is the general philosophy that you do what you have to and worry about it later, and they provide a very expensive type of journal.

This will cost the taxpayers of Maryland something in the neighborhood of $100,000 a year. It is a gigantic proposition, which requires not only the taking of notes, but checking out, proofing and all that sort of thing and it is not worth anything unless you do the necessary checking to make certain that it is accurate.

Of course, as I understand, Congress' may be accurate and it may not be, because you can go into it to change it all around to suit the member.

The point of it is that this is a legislative matter and there is really no reason whatsoever to require it in the Constitution, and I object to it; number one, and this is my objection that has the least force, it is very expensive and cumbersome, it doesn't really provide you with much of anything.

Number two, it provides a very serious legal problem, another roadblock, testing of the legislature, and thirdly, the general Constitutional principle is something that you just should not put in a Constitution. It is not in the Federal Constitution and I doubt it is in any other state Constitution, and we are just doing a little social experimenting here.

THE CHAIRMAN: Any questions of the sponsor of the amendment?

Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Delegate James, do you have any idea of the cost to the state of Maryland which

we are mandatorily putting on them by requiring all debates to be recorded and all journals of committees, et cetera, and individual recorded votes to be entered?

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Based upon the experience of this Convention, it will be in the neighborhood of a hundred thousand a year. Of course, I apologize for mentioning money here.

THE CHAIRMAN: Any further questions; Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, apropos of that last question that was asked the sponsor of this amendment, I wonder if he could enlighten the Committee of the Whole as to what the percentage of the state budget is allocated to legislative proceedings at the present time?

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: I don't know really about percentage. I haven't really made a calculation. It costs about three million dollars a year to operate the legislature.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: Would the delegate be surprised if I told him it was one percent?

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: No, I wouldn't be surprised at that. I would say this, that the legislative branch of government is the least expensive branch of the government. It costs the citizens of Maryland about 75 cents apiece to support the legislature.

However, I would say that this does not justify the wasteful expenditure of public funds. I suppose that is my puritan ethics.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: I wonder if the delegate would be at least liberal enough to let it cost the citizens 76 cents?

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: I will not spend a cent which is not justified. (Applause.)

THE CHAIRMAN: Delegate Weidemeyer.

DELEGATE WEIDEMEYER: A question directed to

Delegate James.

THE CHAIRMAN: State the question.

DELEGATE WEIDEMEYER: Delegate James, in addition to being a distinguished former President of the Senate and a distinguished attorney, probably you could answer me this Constitutional question.

If the legislature did not keep this daily journal and keep this transcript of all the debates and the legislature in its wisdom figured that rather than put another tax bill on the people of the state of Maryland, it would save the money and not publish the transcript, could the Court of Appeals or any other court issue a mandatory injunction and compel the legislature to act in this respect?

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: I really don't know. After what has happened in recent years anything can happen.

THE CHAIRMAN: Delegate Singer, do you have a question of Delegate James?

DELEGATE SINGER: I do.

THE CHAIRMAN: Delegate Singer.

DELEGATE SINGER: Are not the mechanical problems you have mentioned in reference to keeping a transcript very similar to those encountered by State and Federal courts throughout the country in civil and criminal trials, and are solved there?

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: I would think that they would be somewhat similar. However, I had a case once, now that you have brought up the subject, and we didn't have an experienced stenographer, and one of the girls in Belair agreed to take the testimony, and she got about half-way through the case and she decided that she wasn't doing a very good job, and she quite. And now, I forget exactly what happened in the case, but I have often thought,I have often thought that the fact that the testimony stopped in the middle of the case probably would have created a mistrial.

THE CHAIRMAN: Any other questions of the sponsor, Delegate Singer?

DELEGATE SINGER: Delegate James, would you not think the resourcefulness of the State of Maryland could

prevent such a happening in the General Assembly?

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: I think it could easily happen that mechanical equipment could break down, especially in the last days of the session and this would be simply catastrophic. It would be, -- you know, we are at the mercy of the stenographers in this state. They have a pretty good system. There are not too many of them and they charge pretty well, and if a stenographer would happen to get sick, or it were late at night and you didn't have another stenographer handy, I don't know what you would do. I guess you would have to simply hold up until you could get a stenographer.

THE CHAIRMAN: Delegate Koger.

DELEGATE KOGER: Delegate James, don't you think that if you have transcripts of your debates that the average delegate could plan to execute what he says perhaps with greater care?

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Well, if this is any sample here, I wonder.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, a point of parliamentary inquiry.

THE CHAIRMAN: State the inquiry.

DELEGATE GALLAGHER: I should like to ask the stenographer how you are making out.

THE CHAIRMAN: Any further questions of the sponsor of the amendment?

If not, any delegate desire to speak in opposition to the amendment?

Delegate Gallagher?

DELEGATE GALLAGHER: Just briefly, Mr. Chairman, I am impressed with Senator James' adherence to a million for defense, but not a cent for tribute.

However, I do feel that as the General Assembly of Maryland spends more and more time involving itself more and more in the affairs of the people of the state, and it is far too late to put the chicken back into the egg, that it is not really a social experiment for the social necessity to provide the people of Maryland with the proceedings and the transcript of the debates.

It seems to me that it has the benefit not only in court interpretation, but also to allow the public to know if it so desires,to allow the various political subdivisions and their officers to learn, what was said and what the responses were, and who took what positions in the debates of the General Assembly.

I feel that keeping the transcript provision will assist in what we have been trying to do, and that is to let the legislature know that the eyes and ears of the people of the state of Maryland are trained upon it, that they are expected to and undoubtedly will react in a more responsible manner, and that this visibility which we have sought throughout the entire legislative article will continue to be made available.

I don't think that in the age of the Sputnik and the age of the laser, in the age of all modern devices, that have aided mankind, that a little old stenographic machine is going to be the difference in life and death between the success or failure of the General Assembly, and I submit that these artificial obstacles are more in the way of light impediments than any genuine

difficulty in arriving at the Conclusion which we seek here.

I would urge this committee to please defeat the amendment.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: Mr. Chairman, may I make an inquiry of Delegate Gallagher?

THE CHAIRMAN: Delegate Gallagher, do you yield to a question?

DELEGATE GALLAGHER: Yes, sir.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: Delegate Gallagher, if this amendment fails, will you likewise continue to work on a compromise, including this matter?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Yes; we would hope, of course, that the Committee would show its general disposition by voting in favor of the committee and against the amendment, but if we lose it, we will certainly try to retrieve what ground we have by way of compromise.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: And by way of compromise you will consider making this a provision by rule rather than by Constitutional mandate?

DELEGATE GALLAGHER: Yes. As I said, we really do not intend that there be a literal interpretation of this. If somebody misses an "a" or "the", we really don't want the legislature to fall on its face.

We don't mean literal compliance.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Mr. Chairman, the vote on the last amendment would indicate that this amendment would also fail, and these votes disturb me, because I think that the members of the Committee perhaps are viewing this subject from the standpoint of theory, that theory being the theory of visibility, whereas there is a very practical aspect to it, which perhaps has been lost sight of.

The practical aspect is that what we are doing here, perhaps, is placing in the Constitution certainly prerequisites which will have to be met before a bill can become law.

Now, a lot has been said about bond legislation and since I have some familiarity with this subject, I thought perhaps it might be helpful to the committee to give you in some capsule form exactly what we are talking about.

When an attorney is asked to approve a bond issue, what he is doing in effect is he is certifying that the act which was introduced into the General Assembly and became law really is the law.

This means in effect that the bill as it passed through both houses met all ofthe Constitutional prerequisites that the document requires, so that you can say, without any doubt at all, that that bill has ripened into a law.

That is to say, you have got to check out each of the steps as the bill passes through to make sure that those steps as required by the Constitution have been complied with.

In this regard, the job is very much like the title search that is done when you buy a house. The lawyer goes to the record offices of the courthouse and

checks out each of the transactions that preceded the one you are engaged in and finally determines that there is a free and clear title, and so certifies.

Well now, the problem here is that if we continue to mount Constitutional prerequisites it is going to be virtually impossible for a conscientious attorney or firm of attorneys, to certify that all of these things have been met.

The vote on the business about the committees is going to be extremely difficult thing to determine, even though we have a very modern equipment and very modern machinery to meet these tasks. Still and all, it is going to be tremendously difficult, if not impossible, to do.

THE CHAIRMAN: You have one-half minute, Delegate Case.

DELEGATE CASE: I am wondering, therefore, because I would hate to see the Constitution drawn in such a way as to fix these elements as Constitutional requirements for the certification and validity of the law.

I am wondering, and this is merely a suggestion, whether or not Delegate James wouldn't agree to withdraw this amendment so that there wouldn't be a vote on it, and with the idea that he and Delegate Gallagher will in fact get together as Delegate Clagett has suggested for the purpose of continuing these things in the document, so that the visibility theory will be met, but making it clear that these matters are not of such Constitutional dignity that they could in fact force the scrambling of the laws that would enmottle the brain of the best bond attorney in the state.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Delegate Case has explained the matter from a strict legal standpoint just about as well as it can be explained.

My political instincts tell me it is well to withdraw the amendment.

THE CHAIRMAN: Do you do so?

DELEGATE JAMES: Yes, and to seek further assistance from Delegate Gallagher.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I would prefer to assist Delegate James from a position of strength, which in my position would be an affirmative vote against the amendment.

THE CHAIRMAN: The Chair believes this is the option of Delegate James. He has the right under the rule to withdraw the amendment.

DELEGATE GALLAGHER: I have one suggestion. I think bond counsel could increase their fees if they found the job to become too onerous.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: I am withdrawing, but I am going to say to Delegate Gallagher, it is excellent to have a giant's strength, but it is tyrannous to use it like a giant.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: Let me say, Mr. Chairman and fellow colleagues, that I do think that, well certainly I am glad the sponsor has withdrawn his amendment, and I will as one member of that committee work with him, work with the Chairman and help to clarify this

area that Delegate Case has talked about.

I do believe that this transcript is a very necessary thing and I would hate to have it lost, but still I would hate to leave a whole body of legal opinion up in the air, so it will be worthwhile.

THE CHAIRMAN: For what purposes does Delegate Storm rise?

DELEGATE STORM: To make a request of the committee when they are reconsidering this.

THE CHAIRMAN: I am sorry, I didn't understand you.

DELEGATE STORM: To make a request of the committee when they are reconsidering this.

THE CHAIRMAN: State your suggestion.

DELEGATE STORM: This was one section that I wanted kept in this 3.17, one sentence, because it has been one of the regrets of my life that when I served in these hallowed halls, some of the words then, when I was young and when I was able to speak with real fervor, they have not been recorded for posterity, and I suggest humbly to you that not always does the printed word give

the full effect that we would like to get here, and please consider how Hammacher and Schlemmer have a very inexpensive little global T.V. set, and if you could have the transcript on television tape, so we could play it back, I would appreciate it.

THE CHAIRMAN: Delegate Penniman.

DELEGATE PENNIMAN: Mr. Chairman, I would simply rise to ask if I could get a clarification of what is the present status.

Are we now saying that there will be a compromise made, if so a compromise between whom about what, or is it a clarification of what has already been decided? I am not at all clear. If it is a compromise, does it come back before this committee?

If you could clarify it for me, I would be very happy.

THE CHAIRMAN: The present situation is that Amendment Number 20 was defeated, Amendment Number 21 is withdrawn, Section 3.17 is before the Committee of the Whole in the form that it had before these amendments were submitted, but you have a statement of intention on

the part of the committee chairman that he will submit additional amendments.

Delegate Henderson, did you desire the floor?

DELEGATE HENDERSON: No, sir.

THE CHAIRMAN: The pages will please distribute Amendment AJ. This will be Amendment 22. The Clerk will read the amendment.

MR. QUILLEN: Amendment Number 22 to Committee Recommendation Number LB-2 by Delegate Gallagher.

On page 4 Section 3.16 Consideration of Bills in line 33 strike the period and insert in lieu thereof the following: ",nor shall any"; and in line 34 strike the word "No"; and in the same line strike out the word "shall".

THE CHAIRMAN: The amendment is submitted by Delegate Gallagher.

Is there a second?

DELEGATE GLEASON: I second.

THE CHAIRMAN: The amendment having been seconded, the Chair recognizes Delegate Gallagher to speak to the amendment.

DELEGATE GALLAGHER: Mr. Chairman and ladies and gentlemen, you will remember last evening when we were on Section 3.16 that Delegate Scanlan raised a question of what actually applied to the exceptions when the special session was taking place, and I think this amendment will now clarify the situation to show what we mean in the way of when the exception shall apply.

Starting on page 4, line 30, would now read, "except during the first four days of the special session, no vote on final passage of the bill shall be taken until the bill and amendments thereto shall be in writing, nor shall any vote on final passage of the bill be taken until the fifth calendar day after its introduction in the House of origin and until the second calendar day after it reaches the House, except upon the affirmative vote of three-fifths of all the members of the House in which the suspension is requested."

Now, it is a long sentence, but it does, I believe, show that the exception applies to the special session on both counts.

THE CHAIRMAN: Delegate Gallagher, unless the

Chair completely misunderstood your earlier intent, this amendment would defeat a different intent that you have.

Is it your intent that the exception beginning in line 38 applies only to the two immediately preceding phrases, or does it now apply all the way back to the beginning of the sentence, and include the phrase beginning on line 31 and continuing 32, "no vote on final passage", in other words, may a vote on final passage be taken without the written bill and amendments being before the House, if three-fifths of the members permit?

I took it from what you said earlier that you did not intend that result, but it may be that gramatically that would be the construction of the sentence.

DELEGATE GALLAGHER: Mr. Chairman, we did not intend to do away with that particular requirement.

THE CHAIRMAN: Could we leave that to the Committee on Style but have it stated quite clearly, Delegate Penniman, that this sentence, as reconstructed, is not intended to mean that by three-fifths vote of the House a vote on final passage of the bill could be taken before the bill and all amendments thereto were

in writing; is that correct, Delegate Gallagher?

DELEGATE GALLAGHER: That is correct, Mr. Chairman.

I will withdraw the amendment then, if you feel it can be accomplished without it.

THE CHAIRMAN: I think read the amendment with the further clarification to be accomplished by the Committee on Style.

Delegate Marion.

DELEGATE MARION: Mr. Chairman, I am frank to admit I don't understand what this sentence will mean, if we adopt the amendment, because we will begin the sentence with an exception, and we will end the sentence with an exception, and I won't know whether we have created an exception to the exception and where we stand when we get to the middle of the sentence.

THE CHAIRMAN: I think the Chair can state it.

If I correctly understood the chairman of the committee, the first exception, that is, the one at the beginning of the sentence, applies to everything that follows.

The last exception, that is, the one at the end of the sentence, does not apply to everything that precludes, but only applies to the two phrases immediately preceding.

It does not apply to the phrase beginning at the end of line 31 and continuing in line 32. Gramatically it is a poor sentence. It would have to be reconstructed, but with that statement, I think the meaning of the committee is relatively clear.

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, we are working out a complete sentence that will be more appropriately stylized.

THE CHAIRMAN: Well, if you want, we can pass the amendment and consider another amendment while your staff adviser works on that language.

DELEGATE GALLAGHER: Yes.

THE CHAIRMAN: Lay aside Amendment 22, with the consent of the sponsor, to be taken up later.

Will the pages please distribute the Amendment marked AK. Amendment AK.

For what purpose does Delegate Bamberger rise?

DELEGATE . BAMBERGER: Mr. Chairman, while the pages are distributing that amendment, may I read an amendment which will be offered later by Delegate Adkins, Anderson and Bamberger?

It provides that on an appropriate day and on a proper line of the article the judiciary insert the following words, or mandatory words, in substantial and literal compliance with the intent thereof.

"There shall be a court of a fifth tier of the unified judicial system of Maryland, which shall be known as the Court of Constitutional Construction. All of the members of the Bar in Maryland who served as delegates to the Constitutional Convention of 1967 shall serve as judges of the Court. The Chief Stenographer of the Constitutional Convention shall be the Chief Judge of the Court.

The Court shall have exclusive and original jurisdiction to decide all justicial questions of the construction and meaning, if any, of the Constitution of 1968, if any.

The Court shall also exercise all power and

duty devolved upon the Rules Committee by the Constitution of 1968.

THE CHAIRMAN: Amendment 23.

The Clerk will read the amendment.

MR. QUILLEN: Amendment Number 23, on Committee Recommendation Number LB-2 By Delegates Gallagher, Bard, Chabot, Clagett, J. Clark, Fox, Grumbacher, Hanson, James, Koss, Marion, Mudd, Needle, Scanlan, Sickles, Sollins, H. Taylor, L. Taylor, WAgandt, and Winslow.

On page 2 following line 42 of Section 3.03a Redistricting Procedure add this new sentence:

"The state shall be divided by law into districts for the election of members of the United States House of Representatives. Each district shall consist of adjoining territory and be compact in form.

Due regard shall be given to natural boundaries and the boundaries of political subdivisions. The number of persons represented by each member of the United States House of Representatives shall be substantially equal. The boundaries of districts shall be re-established consistent with these standards in accordance with the

most recent census for the apportionment of the House of Representatives under the United States Constitution. Upon petition of any registered voter, the Court of Appeals shall have original jurisdiction to review the districting and grant appropriate relief if it finds the districting to be unlawful."

THE CHAIRMAN: The amendment having been seconded, the Chair recognizes Delegate Gallagher.

Do all delegates now have a copy of the amendment? Amendment 23.

The Chair recognizes Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, ladies and gentlemen of the House, you will remember last evening that we had before us an amendment which would have created a Congressional redistricting procedure.

That amendment failed at that particular time. You have now before you Amendment Number 23, which I think is a more simplified approach to the problem, which does provide that the legislature shall call for the redistricting into Congressional districts under certain stipulated circumstances and with certain tests, all of

which are precisely comparable to those which we have provided for the state redistricting.

I think this is a good approach to the problem of Congressional redistricting. I think it shows an attempt to be uniform, both in Congressional and in state redistricting, and consequently I do believe that it would be appropriate to adopt this particular amendment to the Committee Report.

THE CHAIRMAN: Are there any questions to the sponsor of the amendment?

Delegate Wheatley?

DELEGATE WHEATLEY: Would the Chairman yield at this time?

DELEGATE GALLAGHER: Yes.

THE CHAIRMAN: Delegate Wheatley.

DELEGATE WHEATLEY: Would the Chairman tell us what if any of the existing Congressional districts would not be in keeping with this proposed amendment?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Well, I can simply say this; that since the deviation in the present districts

is less than two percent, that I would say that undoubtedly the number of persons represented in each of the districts is substantially equal. I think all of them are adjoining.

The only possible area of inquiry would be whether or not they are compact. The question of compactness is not one which I feel qualified to pass upon with respect to present Congressional districts, and is one in which it seems to me courts can have differing opinions about.

I don't see that this is an attack on any existing Congressional district, as the Federal Court redistricted prior to the last election.

THE CHAIRMAN: Delegate Wheatley.

DELEGATE WHEATLEY: A further question, please, Mr. Chairman.

THE CHAIRMAN: State the question.

DELEGATE WHEATLEY: Would the words "adjoining territory" be subject to the interpretation that was given yesterday as applies to land area, or not land area, and I am thinking in particular of the third Gonressional

district of Baltimore City, which jumps the Patapsco River, as I recall.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I don't think it would disturb the form of the third Congressional district, even though there is some water division between the district. There is also a touching land section of the district, as well, as I understand it.

THE CHAIRMAN: Delegate Wheatley.

DELEGATE WHEATLEY: I don't have the map before me. However, it seems to me there are some segments of it that are entirely separated by water. I am not certain of that.

THE CHAIRMAN: Delegate Wheatley, the Chair again suggests to you that there is no body of water in the state of Marvland that is not in a county. The lines usually run through the center of the rivers.

Delegate Wheatley.

DELEGATE WHEATLEY: Mr. Chairman, I don't quite know what you mean by that, because we have a legislative district, that if we use rivers probably it would be

separated into four sections, rivers and creeks depending upon how you define them.

Again, I am without a map and I would like to have a definite answer to this, if I might, before we vote on this question.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I am sorry, Mr. Chairman, I was looking at a map when you addressed the last question to me.

THE CHAIRMAN: He said he would like to have a definite answer to his previous question.

DELEGATE GALLAGHER: Well, I would expect in all probability territory can be both land and water. I don't know whether you may have all the water problem in the third Congressional district. I don't have that knowledge. I don't have the Congressional district map before me.

THE CHAIRMAN: Delegate Wheatley, do you have further questions?

DELEGATE WHEATLEY: Mr. Chairman, I do not, if he cannot answer it at this time.

THE CHAIRMAN: Delegate Henderson, do you have

a question of the sponsor?

DELEGATE HENDERSON: Yes,I do.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: If the Congressional district can extend across the Chesapeake Bay, Anne Arundel County is hooked up to the eastern shore. It is divided like all Gaul, into three parts, as you may know. Would that be prevented under this amendment?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Delegate Henderson, as I read line 8 it says,"due regard shall be given to natural boundaries of political subdivisions."

The prior sentence, "each district shall consist of adjoining territory." Judge Henderson, I can't say with certainty, but of course this Constitutional provision would not be operative until after the decennial census of 1970, which would be 1972.

It could not in my opinion be used to invalidate any existing district even if it were in conflict.

THE CHAIRMAN: Delegate Rybczynski, do you have a question?

DELEGATE RYBCZYNSKI: No, sir. I was going to participate in that business about the third Congressional district of Baltimore City.

However, apparently that has been answered.

THE CHAIRMAN: Delegate Case, do you have a question of the sponsor?

DELEGATE CASE: Yes, sir.

THE CHAIRMAN: State the question.

DELEGATE CASE: Delegate Gallagher, who is going to redistrict? Who is going to do the redistricting? In the other section, of course, where we are dealing with the General Assembly, a fairly elaborate plan is asked to be done.

How is it to be accomplished under this provision?

THE CHAIRMAN: Delegate Gallagher?

DELEGATE GALLAGHER: In my opinion, the only legal way for Congressional districting to be done is to be done by the General Assembly of Maryland, the legislature itself, and no other body.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Do you mean to say that the governor could not, or a redistricting commission similar to that established for the General Assembly, could not be provided for here?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: You could provide for a redistricting commission, but you could never provide in my opinion that the commission plan would become law.

Something further must happen, and that is to say the General Assembly must be the final actor in the process. That is to say, whatever plan is adopted must be a plan that was ultimately adopted by the General Assembly.

You could use the commission idea to start it off, or to initiate it.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Can you tell me what authority there is for that statement? In other words, why can it be one way for the state representative body and cannot be that way for the Federal?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Well, all the writing in

the Congressional quarterly publication that was put out with respect to Congressional districting speaks in terms of having to be accomplished by the General Assembly.

In addition to that, there is provision in the Constitution of the U. S., Section 4, of Article 1, times places,and manner of holding elections for Senators and representatives shall be prescribed in each state by the legislature thereof.

So it would seem that the General Assembly must actually do it.

Apportioning is done by the Congress, or the Federal Government, and districting is accomplished by the legislature of the state. I think that is the judicial method of approach.

THE CHAIRMAN: Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Mr. President, I would like to ask a question or two of the Chairman.

In this amendment, and without qualification it seems to read, each district shall consist of adjoining territory and be compact.

The Chair knows that under the court plan, in

order to preserve the three Congressmen from Baltimore City and their seniority, that they had to get away from the adjoining territory theory and they would have to join Talbot County and Southern Anne Arundel, skip the Chesapeake Bay and go over into the eastern shore, and if they didn't do that, they would have to take the eastern shore and ignore natural boundaries and probably come up into Harford County, or take a slice of Harford County, in order to get population.

Do you think it well that we freeze language in that makes it mandatory, that they shall consist of adjoining territory, when under certain circumstances we may have to jump across the Chesapeake Bay, jump across the Susquehanna River, or swim across the Potomac in order to get brethren?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: It is obvious, Delegate Weidemeyer is not pleased by what the Federal district court did.

The Federal district court was not required to follow any of these tests, because since 1929 there had

been in effect from the Federal point of view no tests, so you have got your Congressmen and how you went about dividing up the districts was solely a state matter.

As I said before, this would be an attempt to return to some of the earlier requirements of the Congress of the United States, and I cannot fault the gentleman, that there can be Congressional districts which people are dissatisfied with.

I would not seek to do the redistricting here. I would simply say that this provides a test which assures some fairness.

THE CHAIRMAN: Delegate Weidemeyer.

DELEGATE WEIDEMEYER: In view of the fact that Maryland has all these natural resources,the Chesapeake Bay and the beautiful river, and we cannot in all instances and under all circumstances, have adjoining territories, the further question is, do you think that we ought to press it in the Constitutional language where the legislature cannot act because of language in the Constitution that restricts them from doing the kind of job that they would like to do and be fair to everybody

concerned?

DELEGATE GALLAGHER: When the legislature had a free hand it tried three times, 1961, '63 and '65, to come up with a Congressional redistricting plan, none of which ever saw the light of day.

Ultimately the Federal district court had to do the job. I don't say that the best elements of the three unused plans were not contained in the Federal district court plan. Perhaps the worst elements were, but all the Federal district court succeeded in doing was to keep the population variance at a minimum and it succeeded in chopping up Anne Arundel County and Baltimore County into ways which the residents of neither of those counties are pleased with.

I understand, and I agree with them and I sympathize with them. This might help with some of these significant jobs that you are complaining about.

THE CHAIRMAN: Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Don't you think there ought to be a little language in here similar to what you suggested yesterday, as near as practicable, or something

like that, so that we are not frozen with hidebound language of, "shall consist of adjoining territory", when in some instances in order to work out the job, we may have to get away from adjoining territories in order to work the thing out equitably?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: If the gentleman is displeased with it he always has the privilege of voting against it or offering an amendment to delete it.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: Mr. Chairman of the committee, I would like to have you yield for a question, please.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Yes.

THE CHAIRMAN: State your question.

DELEGATE HARDWICKE: I would like to draw your attention to the difference in language between your Congressional districting provision, redistricting provision and your legislative districting provision.

In line 18, on page 1, you provide with regard

to legislative districts, that natural boundaries and the boundaries of political subdivisions shall be followed insofar as practicable.

When you drafted the Congressional redistricting language, you modified that to read, reading in line 8 and 9, "due regard should be given to natural boundaries and the boundaries of political subdivisions."

Now,let me ask you, do you mean something less, some less attention with regard to Congressional districts, or the same attention?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: May I point out to Delegate Hardwicke that last evening we amended Section 3.02 to have it read, as is proposed in Amendment Number 23, which was, "due regard shall be given to natural boundaries and the boundaries of political subdivisions", so that the proposal in Amendment 23 is identical to what we adopted last night in 3.02 as amended. so those two are now the same.

The reason for not using the word "practicable" and going to "due regard" was that we wanted the primary

consideration to be the substantially equal representation, and the due regard to natural boundaries and the boundaries of political subdivisions, to be of less consequence than the attempts to achieve substantially equal representation.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: Thank you. I was not aware of the amendment. Thank you for calling it to my attention.

I would like to phrase one further point with regard to this.

In the present Congressional redistricting drawn by the District Court, and I am familiar with it, as some of the suggestions I made are in there, one of them in particular relates to the Beltway around the city of Baltimore, and there, Mr. Chairman, the Beltway of the City of Baltimore or around the City of Baltimore forms the boundary for certain of the metropolitan Congressional districts.

Would you not permit in your language such artificial boundaries to be used in Congressional redistricting?

In other words, would you upset the present plan, since your language does not permit a boundary such as the beltway to be taken into account?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: No, I think the gentleman misunderstands the intent of the section.

Constitutionally, this much the legislature is required to do, namely, to give due regard to natural boundaries and the boundaries of political subdivisions.

This does not eliminate the right of the General Assembly to consider other artificially created natural boundaries, such as the Beltway. I would see no inconsistency between the two.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: Delegate Gallagher, may I make an inquiry? With respect to the inquiry of Delegate Weidemeyer a moment or so ago, that the language, adjoining territories, is ironclad, am I not correct in interpreting "territory" to include territorial waters?

I know of no water that sits upon anything other than territory or land in that restricted sense, but

that is a restricted definition.

Therefore, adjoining territory would include territorial waters.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I would think that territory--let me state this, as I understand it. The Chairman has stated that there is no body of water, is that correct, Mr. Chairman, no body of water--

THE CHAIRMAN: --that is not included in any county. All county lines, not all, but most county lines, go through the center of rivers or other bodies of water.

DELEGATE GALLAGHER: Again I am afraid we are getting into the hassle we had last evening on the question of adjoining, which I am doing my best to avoid at the moment, and I suspect that what Delegate Adkins is about to arise to again.

The Supreme Court of the United States had used the word "contiguous" heretofore. I do not know whether or not under that interpretation that they jumped bodies of water, but I suspect they probably did.

THE CHAIRMAN: Delegate Bamberger.

(No response.)

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: Would the Chairman yield for a question?

THE CHAIRMAN: State the question.

DELEGATE ADKINS: Delegate Gallagher, you were quite helpful this morning in clarifying certain problems which I and my constituents had in connection with 3.02.

As some of the language in 3.02 is the same, although slightly different as to the language this amendment, proposed amendment contains, in view of the fact that you gave an explanation in 3.02 this morning, which in some way slightly differs from the explanation that you have given this afternoon in connection with the proposed amendment; may the record show that your explanation of the language insofar as it was used in 3.02, that is, the explanation you gave this morning, is intended to control 3.02 without being buried by any potential or possible conflict as a result of your explanation in connection with the proposed amendment?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Yes, I would agree that the explanation as given this morning is the intention that the committee had with respect to the use of the word "adjoining" in 3.02.

To be consistent and without having to consult with my committee, and without having consulted the other 20 sponsors on this particular amendment, which someone was kind enough to put my name at the beginning of, I would say that, adjoining would continue to be interpreted in the same way that I interpreted it with respect to 3.02.

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: So that I am really not trying to pinpoint any differences in interpretation, because I think that might only serve to confuse rather than to clarify.

All I would like to get is an affirmative statement that what you said this morning insofar as your then definition of the word adjoining and compact, was intended to be controlling insofar as the use of those words in

3.02 is concerned.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: That is correct.

THE CHAIRMAN: Delegate Beatrice Miller.

DELEGATE B. MILLER: May I ask the Chairman a question?

THE CHAIRMAN: State your question.

DELEGATE B. MILLER: Would the Chairman be willing to take the sentence,which seems to distress so many delegates, out of the statement, the second sentence, beginning with "each district shall consist of adjoining territory and be compact in form"?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Delegate Miller, I think that since I am only one of 20 on this amendment, that I cannot speak for the other 20 . If the other 20 would allow me to speak for them, I presumably wcould work out something but I suggest we are just drafting, and on the floor here, it seems to me, an amendment which might well be reconsidered by all the sponsors together to get their combined interpretation of it.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: I understood the Chairman to say a few days ago, when we began to discuss this matter, that the committee had left this, or was leaving this matter to Congress, the reason he didn't put such provision in here.

Now there seems to be a change and now we are putting the provision in. Am I correct in that? Have you changed your views about it?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Delegate Henderson, to be perfectly frank, the Chairman of the legislative committee was informed that if no provision were put in this Constitution with respect to Congressional redistricting, that there was a genuine possibility that the League of Women Voters would oppose this Constitution in its entirety.

Since I did not seek to get that particular result, I felt it incumbent that I join with the group that had proposed it, and I now find myself in the lovable position of having it to defend throughout. I am here and I will stick with it.

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: Chairman Gallagher, would you yield to a question or two?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I yield.

THE CHAIRMAN: The Committee will please come to order. The Clerk will ring the quorum bell.

Delegates will please take your seats, the Committee will please come to order.

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman and ladies and gentlemen: Before the waters of the Chesapeake arise and inundate me completely, I should like permission of the Chair and of the Committee of the Whole to withdraw this amendment and to take it to the Committee on the Legislative Branch with an opportunity to submit it later as LB-3.

THE CHAIRMAN: You don't need the consent of the Committee of the Whole. The amendment may be withdrawn by the sponsors. If you are speaking for the sponsors, you may withdraw the amendment.

DELEGATE GALLAGHER: I am, sir, for all of us whoever we may be.

THE CHAIRMAN: Amendment No. 23 is withdrawn.

Delegate Willoner: You were next on the Chair's list of persons to be called. (Laughter) Thank you, sir. Do you still desire the floor?

DELEGATE WILLONER: Yes, sir. It is a question which may be answered easily or it may be answered in committee: I wonder if there was any question or study made that redistricting can only be done by the state legislature and we are not the state legislature and I am wondering if that was a problem?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: No, that is not a problem. (Laughter)

THE CHAIRMAN: For what purpose does Delegate Koss arise?

DELEGATE KOSS: With the permission of the Chair, I would like to make a correction or an amplification of a statement that was made previously.

THE CHAIRMAN: Proceed.

DELEGATE KOSS: I want the record to make it very clear that the League of Women Voters is not a single issue organization. I don't think there is any question in the minds of most people in the state that the League did take a very important part in Congressional redistricting and petitioning in and various other things, so certainly

it is very dear, but neither I nor any other person on the floor could say that the League would oppose the Constitution if there was no mention of Congressional redistricting.

THE CHAIRMAN: Thank you. I am very delighted to have that in the record. Delegate Gallagher, do you have a redraft of the Amendment 22, or do you desire that to be still passed for the moment?

DELEGATE GALLAGHER: Mr. Chairman, it has just been completed. I am going over it now, and I am sending it back for printing in just a few minutes.

THE CHAIRMAN: Then we will still hold that amendment. Unless there are amendments of which the Chair is not aware, the next item on the agenda is presentation of Minority Report LB-2 (B) by Delegate Scanlan. This arises under consideration of Section 3.18. The Chair recognizes Delegate Scanlan and requests him to come forward to the reading desk to present the minority report.

DELEGATE SCANLAN: Mr. President and fellow delegates: In the interest of time, I want to advise Chairman Gallagher and the Convention that I will waive the

ten minutes of controlled time allotted to the minority and will rest with the presentation of the committee report plus hopefully recognition during the period of any uncontrolled debate that follows. I believe the report, if you have it before you, speaks for itself. As one of my waggish friends said, I have come to make another long-winded speech in favor of brief language in the Constitution.

As you know, the majority proposes that the General Assembly shall provide by law for a code of ethics and for the regulation of conflicts of interest for all elected officials of the State of Maryland. In my opinion and our opinion this provision should not be made of Constitutional dimention and inserted in the Constitution.

In the first place, it is unnecessary. No sound lawyer in this room can dispute the fact that the legislature has ample power to adopt the Code of Ethic for itself and to enact conflict of interest legislation, not only for all elected officials of this State as proposed by the majority, but indeed for all officials. Indeed as a matter of fact the argument can be made that if this provision is put vesting power to enact conflict of

interest legislation for the elected officials of the State, then perhaps somehow the otherwise plenary power of the legislature to enact conflict of interest legislation for all officials would be impaired and that they would be restricted to legislation implementing the particular provision that the majority proposes. I don't mean to suggest that we of the minority are happy with the failure on the part of the failure of the General Assembly to go very far in the conflict of interest field, however one must be fair and recognize the fact that this is a very, very difficult field in which to legislate. I think the representative from California who appeared before our committee who has been associated as the administrative assistant to Mr. Unra, the speaker of the California house for many years, made the telling point when he pointed out to the extent that you increase the prestige of the legislature, to the extent that you make them more of a full-time body, to the extent that you pay them better, then to that extent can you also expect more of them by way of effective and comprehensive conflict of interest legislation and I think we are moving in the direction of that

type of legisture and as we move in that direction, I think the possibilities are greater that comprehensive conflict of interest legislation will be enacted. But in any event the power to do so is ample. What is suggested by the minority adds not one whit to the power, indeed, and if the argument I have made before it may have any validity in the long run perhaps subtract from that power. Secondly, the provision is completely unenforceable to the extent that anyone could rely on it to obtain particular relief or to require somehow that the legislature enact law. I notice that there have been a lot of loose statements made on this floor during the course of debates on previous sections regarding conservation and consumer protection, that perhaps some right of action was created which if the court did not act, -- if the legislature did not act, the court could. I think the law is completely, firmly and everywhere settled, including this State, at least in all American jurisdictions that the courts cannot compel the performance of a legislative act, cannot mandamus the legislature to do a legislative act and there is no authority to the contrary, and I think the Chairman of

the Committee accepts that proposition.

Thirdly, assuming what cannot really be assumed, that the provision could be judicially enforceable, the legislature could very easily comply with it. It could adopt an innocuous Code of Ethics for itself and an empty limited conflict of interest legislation for other elected officials and then take the position it had carried out its Constitutional duty.

Fourth, like so many of the suggestions that have come before this Convention the proposal demeans the legislative power. We don't write into the Constitution the suggestion or admonition or an exhortation that the Governor execute the laws of this State wisely and fairly, or that the courts interpret them justly and equitably, why then must we urge and prod the legislature to perform a particular act in a field however compelling that field may be.

I think in the long run we have to trust the General Assembly to carry out its duties, so long as the General Assembly is the repository of the legislative power, they should be permitted to exercise that power and when they don't, then we turn them out at the next election.

The only conspicuous exception should be when they use the legislative power to trespass upon the fundamental rights in our Anglo-Saxon tradition of free speech, free exercise of religion, non-establishment of religion, habeas corpus and the rest. These are protections against the misuse of legislative power. This is another example, the majority proposal is another example of affirmatively making the legislature do something. And I suggest if this is carried too far we really undercut the basic assumptions of representative government, that the representatives of the poeple are entitled to govern. And I think in this instance the Convention would be again making a mistake and I think we have made a few in the past in the words of I guess it was Hamlet in the previous two examples: "Error will creep into the affairs of state and be recorded as a precedent," and I know you will cite against me the precedent of the conservation clause and the consumer protection clause, both of which I was irrevocably and remain irrevocably opposed to.

Dean Pound admonished the New Jersey convention when he was giving them a little peptalk and they heeded his lesson, he said the important thing to remember,

perhaps more important in drafting a Constitution, was not what you put in but what you leave out. And he drew attention to the fact that of all the poets of antiquity Homer was the greatest because he knew what to leave out. I do hope this Convention in this instance at least does remember what to leave out. I think this is a clause or proposal that can be left out completely and perhaps arrest the trend of putting too many unenforceable ultimatums and pious statements of legislative policy in what should be a charter of government. As I said before, I will not make any further argument except in the uncontrolled time, but I will be glad to answer any questions if I could.

THE CHAIRMAN: Are there any questions of the minority spokesman?

Delegate Pascal.

DELEGATE PASCAL: Delegate Scanlan, you referred in your remarks to the Florida Constitution which was just rewritten; is that right?

DELEGATE SCANLAN: No, it was a statute.

THE CHAIRMAN: Delegate Pascal.

DELEGATE PASCAL: The statute came from what?

The Constitutional Amendment? I thought they were in the process of reorganizing their Constitution, isn't that correct?

DELEGATE SCANLAN: They are in the process of reorganization, but I don't believe it has passed. Whatever they did, they did by statute under which I assumed was the plenary power that the Maryland State legislature has. All state legislatures to my mind have plenary power except as restricted by the Constitution of the U. S. or their own state Constitution.

DELEGATE PASCAL: Correct me if I am wrong. It was my source of information that in Florida, the legislature is rewriting the Constitution and they made the recommendation to themselves, so to speak, to write the conflict of interest law, isn't that correct?

DELEGATE SCANLAN: I don't believe that is correct. I believe the statute they passed they passed under their existing power. It is true as I understand that they are rewriting their Constitution, but whatever they did by way of reform in the conflict of interest field they did under existing legislative power. There is only one state to

my knowledge that has a provision which is supposed to be like the one proposed, California. Many states have restriction on dual officeholding, and of course we have a restriction or two on that type of limited conflict of interest area. Apparently only one state has a grant to act in this field. That is California. I asked the staff to produce this particular clause, but when we went to the California Constitution we couldn't find it so I don't know exactly what it says. They are the only state that has anything like that. I would gather from what Mr. Margolis said that that wouldn't apply in California. The California legislation has plenary power.

THE CHAIRMAN: The Chair can clarify the status in Florida a little bit. A proposednew constitution was drafted by a commission, submitted to the legislature, which has not acted upon it.

Delegate Raley.

DELEGATE RALEY: Delegate Scanlan, I am very interested in what you have said that these things are meaningless, that conflict of interest doesn't amount to anything, but we have been talking all afternoon about the

Section 3.17 about whether it will keep a transcript and whether it will do all these things. Is that needless too?

DELEGATE SCANLAN: I will confest that perhaps on this point I am open to the charge of advising you here on this instance to do as I say and not as I did in supporting my chairman in the debate on Senator James amendments. I do think there is a distinction. The section, was it 3.17, that dealth with the legislative procedure was in a sense laying restrictions on the legislative activity in the public interest. It could be fairly argued that the restrictions layed upon them were restrictions that shouldn't rise to the level of Constitutional amendments. I feel otherwise. There you were laying restrictions on the exercise of legislative procedure as opposed to legislative power in the public interest. Here you are telling the legislature to act in a situation where there is no power on earth accept the power of the people to require them to act, when they have the power already to act. As a matter of fact, it is really quite unfair, it is a delusion to put this in the Constitution and say presto we will have an effective conflict of interest legislative.

I think in a few years we will have. I understood the legislative counsel is pursuing it; and despite the previous failures the new legislature is with us, and I do believe we are going to reach that point. I don't mean to say that the conflict of interest, I don't mean to suggest that conflict of interest legislation isn't important; it is very important, but it does not in my opinion rise to the level of Constitutional dimension.

THE CHAIRMAN: Any further questions of the minority spokesman?

If not, you can return to your seat, and we will consider the amendment.

During the interlude I can announce a note has been handed to me indicating the score is 19 to 4 in favor of the Navy. That is the final score. I don't know what effect the resolution adopted several days ago had on that.

DELEGATE JAMES: Mr. Chairman, I call for the removal of the sign, "Go Army"! (Laughter)

THE CHAIRMAN: The Chair would like to state at this time in view of the hour and the rather strenuous week that we have put in and the fact that there are a few more

amendments that I would hope we could conclude consideration of this recommendation within the next 30 minutes or so and then adjourn until Monday and not begin a consideration of the next item on the agenda.

Have the pages distributed Amendment D?

The Clerk will read the amendment.

MR. QUILLEN: Amendment No. 24 To [illegible] Minority Report LB-2 (B), by Delegates Scanlan, Della, Gilchrist, Linton, Peters:

On page 5 strike out all of Section 3.18 Conflict of Interest comprising lines 23 through 28, inclusive.

THE CHAIRMAN: The amendment marked "D" is Amendment No. 24.

The amendment having been seconded is before you. Delegate Scanlan has indicated he does not desire to discuss it further at this time. The Chair recognizes Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman and ladies and gentlemen, I won't abuse the kindness of the Convention by going too long. I will say when Delegate

Scanlan goes one way and Delegate Gallagher goes another it is a new version of Irish partition, which I am unhappy to see, because generally the celebrated member of Montgomery County is with the committee by and large.

I should like to say that in view of the history of what has happened with Conflict of Interest legislation and Code of Ethics legislation here in Maryland, that is to say, a uniform history of failure in the past three or four years of 27 bills, at least 24 of them were turned down, died and never saw the light of day. It is quite obvious that there is not going to be any Conflict of Interest or Code of Ethics legislation unless there is some prodding power or some provoking force. I submit to you that that provoking force is not going to be the public, and I submit if there is going to be any effective prodding it is going to be this Constitutional Convention and the language that we provide. Now, last year two bills were referred to the special subcommittee on the subject matter, and that subcommittee came back with the wonderful idea that there indeed ought to be a Conflict of Interest legislation, but it only should apply to the Executive

Branch of government and not to the General Assembly of Maryland, so they have nicely handled that problem. In order to see to it, however, that there should be some kind of regulation with respect to the General Assembly of Maryland, that subcommittee has very wisely suggested that there be a new rule and that there be a joint committee of ethics,and who shall be on this joint committee of ethics? Why the members of the General Assembly, of course, and who shall decide what is ethical and unethical? The members of the General Assembly.

I submit to you this is not a very effective method of policing conflict of interest. As a matter of fact, this very approach was roundly criticized in an issue of the Harvard Law Review where it was pointed out by the author that just as criminal provisions to check the legislature placed the initiative in the hands of the executive and the remedy in those of the judiciary, the implementing mechanism of the Code of Ethics should be outside the legislature. This is precisely what the Maryland legislature will not do if it follows the recommendations of a special subcommittee.

Now, ladies and gentlemen, I think that a Code of Ethics and a regulation of Conflict of Interest is in the best interest of the people of Maryland, and I submit to you that you can put into the Constitution language which will be effective. I do admit, as a strictly legal matter, that nobody can mandamus the General Assembly to pass such legislation, but I submit that no general assembly is going to sit idly by and pay no attention to a mandate of the Constitutional Convention, particularly when we have in this body messengers who will go back to the General Assembly where they served as senators and delegatres and tell them what the wishes of this Convention was as indeed I am sure they will. I would urge you therefore to oppose this amendment. It seems to me if there is anybody in the State of Maryland that can bring about some action on the part of the legisture which is meaningful, it is this Constitutional Convention. To say that you don't like it, to say that there should be a stronger method of handling the matter, is not to address yourself to the problem. Somebody must do it, and we are the best designed body to accomplish it. I would urge you therefore

to defeat the amendment.

THE CHAIRMAN: Is there any further discussion?

Any delegate desire to speak in favor?

Any delegate desire to speak in opposition?

Delegate Pascal.

DELEGATE PASCAL: Just briefly, Mr. Chairman and fellow delegates, to reiterate what Chairman Gallagher said there were 27 bills defeated in the last four years. The last one passed the Senate without one dissenting vote and never got out of committee in the House. I say this legislative counsel is taking up conflict of interest programs, and I think this Convention prompted that action. We had a number of their leadership in front of our committees, and they realized that we were serious on it, and I think they took it up with the idea of inflating our sales. The attitude of this Convention is not against a disrespect for the General Assembly. On the contrary, we tightened our referendum requirements, we have increased the salary, we have defeated provisions for initiative, and I think we have got faith in the General Assembly. However, I don't think the general public has, and I am not here to

pontificate and try to determine why, but it has been a long time in their views, when people get involved in state government they no longer have principal, they are now crooks, and I don't know whether Conflict of Interest legislation is going to help or not, but I think it is a step forward. And I don't think a good Constitution or anything will make a bit of difference to state government if we don't attract the most qualified people in the government and that the state legislators would be the most dignified office that one could hold. I think this is going to be the secret of good government in the state.

Are you ready for the question?

(Cries of "Yes".)

THE CHAIRMAN: The Clerk will ring the quorum bell.

The question arises on the adoption of Amendment No. 24. A vote Aye is a vote in favor of the amendment; a vote No is a vote against. Cast your votes.

Have all delegates voted? Does any delegate desire to change his vote? The clerk will record the vote. There being 50 votes in the affirmative and 61 in the

negative, the motion is lost and the amendment is rejected.

We come now to a consideration of Section 3.01 (A). Are there any amendments to Section 3.01 (A).

Delegate Dukes.

DELEGATE DUKES: Is this the amendment that has to do with the State Capitol?

THE CHAIRMAN: Yes, it is.

DELEGATE DUKES: Inasmuch as I supported those who placed the original proposal for Annapolis in the record, I will have to do so now.

However, I couldn't let this record pass without stating my preference for Hyattsville, and if not Hyattsville, then Upper Marlboro for the state capitol. (Laughter)

THE CHAIRMAN: The Chair hears no suggestion to amendment of Section 3.01 (A). Are there any amendments to Section 3.17 (A)? Delegate Moser?

DELEGATE MOSER: Mr. Chairman, Amendment Q I think it is.

THE CHAIRMAN: Pages will please distribute Amendment Q. Amendment Q will be Amendment 25.

MR. QUILLEN: Amendment No. 24 to Committee Recommendation LB-2 by Delegate Moser, on page 5, Section 3.17 (A) Title "Special Legislation" in line 38 after the word "applicable" strike out the comma and the rest of the sentence in lines 38 through 40 inclusive.

THE CHAIRMAN: The amendment is submitted by Delegate Moser. Is there a second.

(Seconded)

The amendment having been seconded, the Chair recognizes Delegate Moser to speak to the amendment. Are there any delegates who do not have copies of the amendment?

The chair recognizes Delegate Moser to speak to the amendment.

DELEGATE MOSER: Mr. Chairman, this amendment has been offered after discussion with Chairman Gallagher. It is by way of being a clarifying amendment. The effect of it would cause Section 3.17 (A) on Special Legislation to read simply, "The General Assembly shall pass no special law when a general law is applicable." It deletes the phrase "and whether a general law is applicable shall be a matter for judicial interpretation." The reason for the

amendment is very simply this, in the colloquy between Chairman Gallagher and myself when the Committee report was being made, Chairman Gallagher indicated that it was the intention of his committee to continue the present provisions of Article III, Section 33 of the Constitution with respect to Special Laws and if that is the case, the language which is being deleted is unnecessary. In fact the language that is being deleted, which I believe came from the model state Constitution, is confusing because by not putting it in other sections of the Constitution, including Section 7.06, one immediately asks, well, why do we need it? It is perfectly clear that without this language from the case law of Maryland, which we are intending to continue, the court can determine whether a law is or is not a Special Law and, therefore, in violation of the Constitution.

THE CHAIRMAN: Delegate Gallagher?

DELEGATE GALLAGHER: Mr. Chairman and ladies and gentlemen of the Committee, I would urge the adoption of Mr. Moser's amendment. I do feel that he has aptly described the situation, and it is the intention of the

Committee that the present practice with respect to Special Laws should continue under the new Constitution, and I would support his elimination of that part of the section which would be deleted by the amendment.

DELEGATE HARRY TAYLOR: Harry E. Taylor! Mr. Chairman, I would like the sponsor of the amendment to yield to a question, please.

THE CHAIRMAN: Delegate Moser.

DELEGATE MOSER: I yield.

THE CHAIRMAN: Delegate Harry Taylor.

DELEGATE HARRY TAYLOR: It appears to me you have stricken the comma here and you haven't substituted a period.

DELEGATE MOSER: I am sure Style, Drafting and Arrangement will take care of the omission.

THE CHAIRMAN: Any further discussion? Delegate Fox.

DELEGATE FOX: Mr. Chairman, I hate to rise in regard to this on this late hour on Saturday afternoon. This disturbs me because I am afraid that what you are saying is when a general law is not applicable, then the legislature

may pass a Special Law and I think this flies directly in the face of the provision of the local government article that tried to restrict the legislature to enacting only statewide laws.

THE CHAIRMAN: Delegate Fox, do you mean by that last comment that a Special Law cannot be statewide?

DELEGATE FOX: Of course there is no definition of what a Special Law is. Minnesota and some other states use Special Law to mean a local law. Some states talk about a private law and a local law, and a special law is a general classification that includes them both.

THE CHAIRMAN: Delegate Gallagher's statement of yesterday in the course of his presentation I thought was based upon the decision of the Maryland Court of Appeals and indicated that a Special Law was neither a general nor a local law, but as its name implied, a local law, as for instance a law for the relief of an individual citizen. Delegate Fox.

DELEGATE FOX: That in some jurisdictions is referred to as a private law.

THE CHAIRMAN: That is true, that would be a

private law. Delegate Fox.

DELEGATE FOX: The point I want to make is that I don't see any necessity for this section in this Article at all or else there is no necessity for the local government provisions that has been put in. We only need one of them. By having both of them, I am afraid we are causing confusion.

THE CHAIRMAN: Your comment, however, is not directed to the amendment particularly, as I take it?

DELEGATE FOX: Unfortunately, no, it is directed to the whole section which is what should be deleted.

THE CHAIRMAN: Yes. Is there any further discussion? Are you ready for the question?

(Cries of "Yes".)

THE CHAIRMAN: The question arises on the adoption of the Amendment 25. A vote Aye is a vote in favor of the amendment; a vote No is a vote against. Cast your vote.

Ring the quorum bell, please. Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote?

The Clerk will record the vote.

There being 107 votes in the affirmative and none in the negative, the motion is carried. The amendment is adopted.

Are there any further amendments to Section 3.17 (A)? The Chair hears none.

There is, I think, amendment to Section 3.17 (B).

Delegate Grant, do you still desire to offer your Amendment H? (Laughter)

DELEGATE GRANT: Yes, I do. It is not to Section 3.17 (B). It is to another section.

THE CHAIRMAN: You are quite correct. Is there any amendment to Section 3.17 (b)? The Chair hears none.

Will the pages please distribute the Amendment H. This will be Amendment No. 26. The Clerk will read the amendment.

MR. QUILLEN: Amendment No. 26 to Committee Recommendation No. LB-2 by Delegate Grant:

Following line 47 of Section 3.17b. Effective Date of Laws add the following new section:

"Section 3._____. Compilation of Laws

The General Assembly shall provide by law for the establishment of a uniform system of compilation of any statute, resolution, rule, regulation, ordinance, order, proclamation, or any other aciton by any unit of government having the force of law and for their publication. Unless otherwise provided by law, no action having the force of law shall be effective until it shall have been made a part of such compilation and published."

THE CHAIRMAN: The amendment is offered by Delegate Grant. Does any delegate second it?

Delegate Gleason seconds the amendment.

Does everyone have a copy of the amendment? The Chair recognizes Delegate Grant to speak to the amendment.

DELEGATE GRANT: Mr. Chairman, this amendment involves something that is omitted in the present Constitution and it will become of greater importance in the future Constitution. First of all, we are now in Maryland breaking completely new ground in legislation. We are doing something that has never been done by any legislat ureany place, that

is, we are taking the law-making power of the General Assembly and disbursing it among other law-making bodies. This process did not start with this Constitutional Convention, but it started in 1954 when home rule was given to municipalities. From that time on there has not been any legislation passed in the General Assembly relating to municipalities. However, 152 municipalities have continued to enact ordinances, and orders and regulations having the force of law. Also by the growth of administrative law we have almost some 240 or 243 depending what counts you take, authorized certain administrative bodies to issue regulations and rules having the force of law. By this Constitution we are going to set up the following. We will have 152 municipalities acting in a legislative capacity. We will have 24 county governments operating in a legislative capacity.

We have directed that there be 20 agencies, principal departments of government, who will act in a legislative capacity. We will still have one general assembly. It is a total of 197 law-making bodies. Now, this is not necessarily evil. It presents a very definite

problem. At a joint meeting which was held between the legislative and the local government committee, this very concept of residual power was strenuously opposed by Dr. Eberstein, the director of Legislative Reference, on the very grounds that it would be impossible to ascertain what the law was in efffect governing a particular sub, if all this power was turned over to the various bodies.

However, this is a case in which the advantages of doing this have been considered by this body to outweigh the disadvantages. Now, the question that comes up if you look at it closely is: What is the present situation? We have scattered among certain articles of the Code a requirement for the publication and compilation of certain of the laws which have been passed by the various bodies now authorized to pass laws.

For example, Article 76 requires that counties publish their regulations and laws. However, some counties are excepted. Article 41, Section 82 requires the Governor to publish laws of the General Assembly.

Article 41, Section 2.47 requires the agencies to deposit annually with the Secretary of State, such laws

and regulations that they may pass and for the Secretary of State to make these available for sale to the general public.

However, I defy any person in this room to locate all the regulations and rules and statutes which govern any particular legal activity in this case. It simply cannot be done.

I am not advocating that this Constitution attempt to lay down a system of compilation. I am bringing to the attention of this body, that it has to be mandated to be done and it has to be mandated with teeth in it. We will have 197 bodies cranking out laws, and this is what the proposal said, that all these activities, and there are cited statutes, resolutions, rules, regulations, ordinances, proclamations and other actions having the force of law. These are being compiled in a compilation that can be understood.

The Federal Government went through this in 1938 and came out with what is known as the Federal Register, or the CFR. By consulting the CFR it is possible to ascertain what the Federal Government by its many, many law-making

bodies has directed. It may be a job, but it can be done. However, it is totally impossible to find this at any place in Maryland. Now, you can argue yes, we have three statutes which direct this to be done. I only point out to you that it has not been done, and it is necessary to force it to be done. The second sentence of this says "Unless otherwise provided by law, no action having a force of law shall be effective until it is made a part of this compilation and published." Only in the Constitution can you cut broadly across the law-making power of these 197 bodies to require them to do this, otherwise there would be no way that you can force that the laws made by these law-making bodies not be effective until this is complied with. There is an escape clause "unless otherwise provided by law." This would most certainly exempt emergency legislation; it would exempt small things such as letting poeple off on a snowy day. However, I want to point out to you this is not only teeth which would be an advantage to get this done, it is also something that would settle a legal problem.

Knowledge is something that is required to be known before a person can be found to be guilty of violating

a statute or regulation. This is a sword that can cut both ways. With our compilation and present system of filing things, it is impossible to establish knowledge in regard to an obscure department regulation. However with Constitutional sanction and a system directed by the General Assembly with Constitutional teeth in it, there would be no defense that the law or statute was not known. It might be difficult to locate it by going to the compilation, but the defense of ignorance would not hold. I urge you in the strongest possible manner to provide for a compilation and publication of the laws of this state.

Chairman Gallagher has made a great point in making sure that the laws are enacted exactly. I think it is equally important that the poeple of this state know what their laws are.

THE CHAIRMAN: Are there any questions of the sponsor? Delegate Boileau.

DELEGATE BOILEAU: Delegate Grant, are you aware that the General Assembly in the 1967 session did provide in part for what you suggest here as far as municipalities and counties are concerned?

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: I am.

THE CHAIRMAN: Delegate Boileau.

DELEGATE BOILEAU: The precedent set there, don't you think it will be expanded if it works well. It has not gone into effect yet, but I understand it will in '68.

DELEGATE GRANT: I did not.

THE CHAIRMAN: Delegate Singer.

DELEGATE SINGER: Delegate Grant, you indicated at the beginning of your last sentence of your amendment "unless otherwise provided by law" would be the saving clause for such things as emergency legislation and early days off, and things of that nature. Is that the extent of that proviso?

DELEGATE GRANT: That is not. It says " The General Assembly shall provide by law". The General Assembly in its wisdom will provide by law, when this does not have to be carried out.

DELEGATE SINGER: I am unclear as to the extent of the conflict between your proposed amendment and Section

3.17 (B), which provides that every law will be effective the first day of July -- to what extent would this change that?

DELEGATE GRANT: This would change it to the extent that it would not be effective the first day of July. It could not be a part of this compilation and published unless the General Assembly provided otherwise in that specific case or in that specific category of cases.

THE CHAIRMAN: Delegate Singer.

DELEGATE SINGER: This in effect to a great extent voids 3.17 (B).

DELEGATE GRANT: No. 3.17 in order to give a definite date annually, this puts teeth into it. It said it will not be effective unless it is made a part of the compilation and published otherwise it would be effective on the date indicated.

DELEGATE SINGER: Wouldn't it be very difficult to determine what date the law become effective? You would have to find out when it was published rather than knowing that July first or another day specific in the law was the

effective date.

DELEGATE GRANT: That is the exact point of my argument. You would have to look in the publication and see what the law says. If it wasn't in the publication, obviously it would not be effective. You could look at the footnotes and determine what date it was published.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: Delegate Grant, in addition to the various actions or laws enacted by the governmental units you mentioned, would you intend to embrace within the language of this amendment rules enacted by the Court of Appeals under the rule-making authority we have been granted to it under this Constitution, laws or other actions taken by multi-county governmental units under this Constitution, Executive Orders or proclamations of a Governor in connection with the reorganization plans as we have previously provided under this Constitution and laws enacted or having the force of law through the action of a reapportionment or redistricting commission?

THE CHAIRMAN: Your time has expired. Just answer the question, Delegate Grant, as briefly as possible.

DELEGATE GRANT: The answer would be, yes.

THE CHAIRMAN: Very brief.

Any delegate desire to speak in opposition?

DELEGATE GALLAGHER: Mr. Chairman, and ladies and gentlemen, the Committee on the Legislative Branch was not unsympathetic to Delegate Grant's proposal when we had it before us. However, after giving it considerable time and as a result of his kindness in attending our committee meeting and discussing it with us, we did consider it unfavorably. I think there are two reasons. One is that we doubted the wisdom of having this as a Constitutional provision. The General Assembly could itself and has already embarked upon the program to effect the particular result which Delegate Grant would have.

The second consideration was that we were worried about the time lag for those laws which needed immediate implementation. Although the provision does say that there will be an exception unless otherwise provided by law, it may be that there would be no appropriate exception having earlier been provided and one would find that what had to be done in a hurry could not be because of a significant

failure which might not have been able to consider the possibility that called for the enactment of a law which was to be effective immediately.

Consequently, although we are completely in sympathy with the objects of this particular amendment, we did not feel that it had a place in the Constitution. We did feel that everything Mr. Grant wanted could be achieved through the General Assembly.

THE CHAIRMAN: Is there any further discussion?

Delegate Clagett?

DELEGATE CLAGETT: I am well aware that too many words can do more damage than good. At this point, I would like to strongly endorse Delegate Grant's amendment.

THE CHAIRMAN: Any other discussion?

Delegate Henderson.

DELEGATE HENDERSON; I would like to oppose the amendment. It seems to me as a practical matter, it presents insuperable difficulties. Compilation, I assume, would mean publication of something like a code. Acts of legislation take effect, and it is some months before even the Code it -- I mean before they put in the Code may be a matter of a year

or so. To delay the effective date of a bill would be extremely burdensome.

Also the compilation of the rules of court which now take in a separate section of the Code are never up to date. I mean rules are passed and there may be a half-dozen which have come out in between the publication. Some of them are emergencies and have important changes, and to say that you have to wait until the whole compilation has been published and brought up to date before a law can take effect, would impose an insuperable barrier as a practical matter.

I am in sympathy with the objects of this, but I think it is a matter which has to be left to the legislature.

THE CHAIRMAN: Delegate Lord, do you desire to speak in favor or against it?

DELEGATE LORD: I wanted to speak against.

THE CHAIRMAN: Delegate McDonald, did you wish to speak in favor or against?

DELEGATE McDONALD: Against.

THE CHAIRMAN: Delegate Willoner?

DELEGATE WILLONER: I wanted to speak in favor. (Laughter)

THE CHAIRMAN: You may have the floor.

DELEGATE WILLONER: I think it is an excellent idea. I think it is interesting when I asked a question of Delegate Gallagher why they used July first. He said, well, that was the beginning of a fiscal year and that was as good a day as any. But with the extention of the legislature, it is going to be even longer before the laws are published, and it has always been a cardinal principal of the common law that when a person commits a crime that he ought to have some knowledge that it is in fact a crime. I know as a prosecutor we wouldn't find until months later that it was a crime, that there was some new crime.

We had a conflict of interest by the way in Prince Georges County that we didn't even know was on the books until about three or four months after it was enacted when we finally got a copy of it. It was interesting that Mr. Gallagher said that he felt in the committee's wisdom this should not be part of the Constitution, but the wisdom didn't seem as great to me as the wisdom in making

part of the Constitution a provision that was absolutely meaningless, his conflict of laws provision. It seems to me that this is an excellent provision. It means something. It will give poeple notice of the laws and I think it will be very helpful to all people in the enforcement of the laws.

THE CHAIRMAN: Delegate Lord.

DELEGATE LORD: Mr. Chairman, the troublesome aspect of this amendment as I see it is the second sentence. I am very much in sympathy with the principal and agree with Delegate Willoner and Delegate Grant. As I read the second sentence, among the objections mentioned by Judge Henderson was the delay in compilation.

I think another valid objection is that it seems to me it puts the General Assembly in the position of obstructing acts that local subdivions have sought in there wisdom to make effective immediately, and I suggest this could be tampered with and puts the General Assembly in the catbird's seat and unless the second sentence were struck, I would have to oppose it.

THE CHAIRMAN: Any delegate desire to speak in favor? Delegate McDonald?

DELEGATE McDONALD: I rise, Mr. Chairman, in opposition to the proposed amendment. I am not sure what the first sentence means. Whether this would be a state-wide compilation of local laws and, if so, it would be a monstrosity, and if it means simply that the General Assembly shall provide a system whereby these localities hsall compile their local laws, then I submit that it runs counter to the principal of home rule which this Convention has already adopted.

But that is not all. The second sentence in effect says that these codes, these local codes if they are to be local, shall be conclusive evidence of the law. That is a very unusual provision. The Maryland Code is not conclusive evidence of the law. It is simply prima facie evidence of the law, and I am opposed to this amendment.

THE CHAIRMAN: Delegate Marion?

DELEGATE MARION: I wonder if I might address a brief question about the amendment to Delegate Grant?

THE CHAIRMAN: Delegate Grant, do you desire to take the floor?

DELEGATE GRANT: I yield.

THE CHAIRMAN: Having the floor you yield it?

DELEGATE GRANT: I do.

DELEGATE MARION: I wonder if because of the problems which might be posed by the second sentence of your amendment, if you would consider modifying your amendment by striking the last sentence?

DELEGATE GRANT: I would do so reluctantly, but if this were the census of this body, I would agree to go ahead and strike it.

THE CHAIRMAN: Do you modify your amendment?

DELEGATE GRANT: I do so modify it.

THE CHAIRMAN: Delegate Grant modifies his amendment by striking the last sentence beginning with the word "unless" in line 12.

The amendment is so modified.

Delegate Gallagher, do you desire to make any further comment?

DELEGATE GALLAGHER: Mr. Chairman, I think the amendment will remove part of the objection, but I still believe that everything that the amendment would accomplish is in the process of being accomplished already by the

General Assembly and would really be meaningless.

THE CHAIRMAN: Are you ready for the question?

(Cries of "Yes")

THE CHAIRMAN: The Clerk will ring the quorum bell.

The question arises on the adoption of Amendment No. 26. A vote of Aye is in favor of the amendment; a vote of No is a vote against. Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote? The Clerk will record the vote.

There being 48 votes in the affirmative and 63 in the negative, the motion is lost and the amendment is rejected.

Will Delegate Gallagher please come to the rostrum for a moment?

The pages will please distribute the Amendment AM.

Delegate Gallagher, the Chair understands that you now desire to withdraw Amendment 22?

DELEGATE GALLAGHER: Mr. Chairman, I do desire to withdraw Amendment No. 22, and at this time I offer the

amendment marked AM which is No. 27.

THE CHAIRMAN: Amendment 22 which was passed over earlier is now withdrawn.

Amendment 27. The Clerk will read the amendment.

MR. QUILLEN: "Amendment No. 27 to Committee Recommendation No. LB-2 by Delegate Gallagher:

"On page 4 Section 3.16 Consideration of Bills in line 30 after the period strike out everything down to and including line 41 and insert in lieu thereof the following:

"No vote on final passage of a bill shall be taken until the bill and all amendments thereto shall be in writing. Except during the first four days of a special session, or except upon the affirmative vote of three-fifths of all the members of the house in which suspension is requested, no vote on final passage of a bill shall be taken until the fifth calendar day after its introduction in the house of origin and until the second calendar day after it reaches the second house."

THE CHAIRMAN: The amendment having been seconded by Delegate Bennett, the Chair recognizes Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman and ladies and gentlemen, I believe Amendment No. 27 overcomes the difficulties we discussed when we were on Amendment 22 and also incorporates the earlier change we made this morning, which requires that the bill and all amendments thereto shall be in writing. This provides now that at both regular and special sessions of the General Assembly that no vote on final passage shall be taken until the bill and all amendments thereto shall be in writing. Then the next section beginning on line 8 provides that except for the first four days of a special session which means that therefore a special session can act in 1, 2, 3, or 4 days if it so desires, that it is required that a bill be held before a final vote for four days in the house of origin and at least two days in the second house. However, both of these requirements of four days and two days can be suspended by an affirmative vote of three-fifths of all the members. I do believe that this accomplishes what we were seeking to do earlier and I urge its passage.

THE CHAIRMAN: Are there any questions of the sponsor of the amendment? Are you ready for the question?

Is there any discussion? Delegate Burdette?

DELEGATE BURDETTE: What is the meaning of the word "suspension" as used.

THE CHAIRMAN: Where? Line 12?

DELEGATE BURDETTE: Correct. What is to be suspended.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: The Constitutional requirement that no vote be taken on the final passage of the bill until the fifth calendar day after its introduction in the house of origin and the second calendar day after the second house.

DELEGATE BURDETTE: Thank you.

DELEGATE GALLAGHER: You are welcome.

THE CHAIRMAN: Any further questions?

Delegate Marion?

DELEGATE MARION: I have a question of Delegate Gallagher.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE MARION: Does the exception relating to the first four days of a special session refer later in

the amendment to the vote on final passage of a bill or the introduction of a bill? Delegate Gallagher.

DELEGATE GALLAGHER: Well, the exception applies first of all to any four days of the special session, and then the exception with respect to the affirmative vote of three-fifths of all the members of the house talks about the final passage, no vote on the final passage of the bill shall be taken until the fifth calendar day after its introduction and the second calendar day after it reaches the second house.

THE CHAIRMAN: The answer to the question I would take is that both exceptions apply to both operative clauses; is that correct?

DELEGATE GALLAGHER: Correct, sir.

THE CHAIRMAN: Does that answer your question, Delegate Marion?

DELEGATE MARION: I am not sure. May I pose it in the form of a specific instance? Supposing a bill is introduced on a third day of a special session --

THE CHAIRMAN: Complete your question.

DELEGATE MARION: Suppose a bill is introduced on

the fourth day of a special session, can it be enacted immediately or must it wait for five days after its introduction?

DELEGATE GALLAGHER: No, you can move it right through, both the house and senate or senate and house, as the case may be.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: But if it is introduced on the fifth day of the special session it cannot be enacted until the tenth day unless there is a suspension of the rules.

DELEGATE GALLAGHER: Yes, that is correct.

THE CHAIRMAN: Any further questions of the sponsor of the amendment?

Are you ready for the question? The question arises on the adoption of Amendment No. 27. The Clerk will ring the quorum bell. A vote Aye is a vote in favor of the amendment; a vote No is a vote against. Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote?

The Clerk will record the vote. There being 106 votes in the affirmative and none in the negative, the

motion is carried and the amendment is adopted.

Delegate Gallagher, what is the symbol on your other amendment?

DELEGATE GALLAGHER: AL, "ALL". I might say it is significant.

THE CHAIRMAN: Pages will distribute amendment AL.

While we are awaiting the distribution, Delegate Gallagher, your Amendment B has been covered by the amendment acted on very recently.

DELEGATE GALLAGHER: Yes, I will withdraw it. It is Mr. Moser's amendment.

THE CHAIRMAN: Delegate James, you do not desire to offer your amendment AE and AG?

DELEGATE JAMES: That is correct. I would like to quote Winston Churchill: "in defeat, courage; in victory, magnanimity."

He has been very magnanimous. I would like to endorse his proposal.

THE CHAIRMAN: All right, the Clerk will read the amendment.

MR. QUILLEN: Amendment No. 28 to Committee

Recommendation No. LB-2 by Delegate Gallagher:

"On page 5 strike out all of Section 3.17 Journal and Passage of Bills and insert in lieu thereof the following Sections:

Section 3.17 Passage of Bills

No bill shall be enacted nor shall a resolution requiring the action of both houses be adopted unless it is passed in each house by a majority of all the members of that house. A vote in joint session or by either house on any bill or resolution or for the election or confirmation of any state officer shall be taken only in public session.

Section 3.17a Journals

The General Assembly shall provide by rule that each house shall keep a current daily journal of its proceedings, which shall be open to public inspection at all reasonable times, and a transcript of its debates. The General Assembly shall provide by rule that the daily journal of each house shall be published as soon as practicable and the transcript shall be available to the public. The General Assembly shall provide by rule that all final committee votes on all bills in both houses shall be entered

by individual recorded vote in the daily journal of the appropriate house. The General Assembly shall provide by rule that, on final passage of a bill, including a bill proposing a constitutional amendment, or a resolution, the vote cast by each member shall be recorded in the journal of the house of which he is a member."

THE CHAIRMAN: The amendment is submitted by Delegate Gallagher; is it seconded?

(Seconded)

THE CHAIRMAN: The amendment having been seconded the Chair recognizes Delegate Gallagher.

DELEGATE GALLAGHER: Amendment No. 28 does include the various amendments we presented in 3.17 in two sections. The first section on passage of bills pertained to those matters which we consider to be mandatory and require literal compliance. Section 3.17 (A) we have adopted the suggestion of Delegate Hardwicke that the General Assembly shall provide by rule these things in each and every case, thereby providing the differentiation which we sought to achieve in splitting the section into two parts. I think those who were formerly opposed to the

inclusion of what is now 3.17 (A) find this particular presentation acceptable. It would be my understanding, of course, that there would be no question but that the General Assembly would provide by rule those things which are called for in 3.17 (A).

THE CHAIRMAN: Are there any questions of the sponsor of the amendment? Delegate Macdonald.

DELEGATE MACDONALD: I just have an observation.

THE CHAIRMAN: Make the observation.

DELEGATE MACDONALD: In the Article on the Judicial Brnach we use the term "by rule" probably as a term apart, and the court refers to a rule by the Court of Appeals. Here we use the same term, and we obviously do not mean the same thing. We can just call it to the attention to the Committee on Style.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I believe it is a word of art insofar as the General Assembly is concerned because both the house and senate does offer its own rules and it is guided by them, so it has a distinct meaning when you are dealing with matters pertaining to a legislative branch.

THE CHAIRMAN: Any further questions of the sponsor of the amendment? Are there any discussions? Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, and fellow delegates: Let me say as one who has participated in this compromise that I do so with a certain degree of reluctance, and I only did it with respect to resolving the intricate legal questions that were raised by Delegate Case, not that in my own mind the issues were not clear, but simply because I would not like to spread on the record of this Convention, this committee that confusion.

I am assured by the Chairman of our committee that the primary mover of these amendments to delete these provisions, Delegate James, is under no illusion or misapprehension that there is a mandate on the General Assembly in both houses there with respect to carrying out the provisions, particularly in Section 3.17 (A). It is clear, of course, under our prior discussion that if those houses do not carry these provisions out, there is no way that such action can be subject to a legal proceeding on the part of any citizen. It is that area, of course, where my concern

rests, but in the interest of resolving this and with the assurances that I understand Senator James has given and which I hope before we conclude this debate we would say once more aloud, I will support this compromise measure.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Mr. Chairman, my principal concern about this was a strict interpretation given to these procedural provisions. I am satisfied that the actions of the General Assembly are not going to be declared invalid because of the failure to comply with some technicality. I am sure the General Assembly will carry forward the concepts of 3.17 (A).

THE CHAIRMAN: Are you ready for the question?

(Question)

THE CHAIRMAN: Delegate Gill.

DELEGATE GILL: In 3.17 (A) it says the General Assembly shall provide by rule, and down in 27, line 27 beginning with 25, "the General Assembly shall provide by rule that all final committee votes on all bills in both houses shall be entered by individual recorded vote in the daily journal of the appropriate house." That was left in

tact from the 3.17 before which failed to pass Delegate James' amendment. It doesn't give the possibility of the committee votes being recorded because the rule might not be passed by the General Assembly in regard to this, isn't that right?

THE CHAIRMAN: If your question is addressed to the Chair, I would have to agree that if the General Assembly did not provide this by rule, it could be ignored it would seem to me and this is purely a personal observation, it would be inconceivable that the General Assembly will flaunt a very clear and explicit constitutional provision. I cannot imagine that the General Assembly would refuse to pass a rule providing for in Section 3.17 (A).

THE CHAIRMAN: Delegate Gill.

DELEGATE GILL: May I ask Delegate James' interpretation of it?

DELEGATE JAMES: I think it would be clearer if the General Assembly would do this. However, there is nothing before us to take the final vote and be defeated in committee by being ignored. There is nothing you can do about that in any constitution.

THE CHAIRMAN: Delegate Penniman.

DELEGATE PENNIMAN: May I ask a question of the Chairman just for information?

THE CHAIRMAN: Delegate Penniman.

DELEGATE PENNIMAN: Is it normally true, Chairman Gallagher, that this would be an act of the General Assembly for both houses or would it normally be an act of each house for its own?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I would believe under the way Section 3.17 (A) is written one would expect that each house would adopt a rule for itself rather than adopt a general public law so, consequently, each house would have to take individual action.

DELEGATE PENNIMAN: There would be no objection if in style it were thought "each house shall" this would not be contrary with what we are doing?

DELEGATE GALLAGHER: In my opinion it would be consistent with 3.17 (A) as we understand it.

THE CHAIRMAN: Are you ready for the question? A vote of Aye is in favor of the amendment; a vote of No

is a vote against. Cast your votes. Have all delegates voted? Any delegate desire to change his vote?

The Clerk will record the votes.

There being 105 votes in the affirmative and none in the negative, the motion is carried and the amendment is adopted.

The Chair is unaware of any other amendments to any of the sections of Committee Recommendation LB-2.

Are there any other amendments to any section whatsoever? The Chair hears none. The question arises on the approval of Committee Recommendation No. LB-2 as amended. Are you ready for the question?

A vote Aye is a vote in favor of approval of Committee Recommendation LB-2 as amended. A vote No is a vote against. Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote? The Clerk will record the votes.

There bing 105 votes in the affirmative and no votes in the negative, the motion is carried. And Committee Recommendation LB-2 is approved.

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. Chairman, I move that the Committee of the Whole rise and report its action with respect to Committee Recommendation LB-2 as amended.

THE CHAIRMAN: Please remain in your seats. There are a few minutes of business to attend to.

The motion is seconded. All in favor signify by saying Aye, contrary No. The Aye's have it, and it is so ordered.

(Whereupon, at 5:30 p.m., the Committee of the Whole rose, and the Convention reconvened.)

(The mace was replaced by the Sergeant at Arms.)

THE PRESIDENT: The Convention will come to order.

On behalf of the Committee of the Whole the Chair reports Committee Recommendation No. LB-2 is approved with amendments. The report of the Committee of the Whole is referred to the Committee on Style, Drafting and Arrangement.

The Chair thinks the thanks of the Convention is due to the Committee on the Legislative Branch and its staff for a very able presentation of their recommendation.

(Applause)

THE PRESIDENT: Minority Report S and E-2 (C) Mr. Clerk, do you have it?

The Clerk will read the report.

MR. QUILLEN: Minority Report No. S&E-2 (C) by Delegates White, Byrnes, Chabot, Schloeder, of the Committee on Suffrage and Elections:

"A MINORITY REPORT recommending that the right to vote not be extended to nonresident property owners in municipalities."

This minority report relates to the Committee Recommendation No. 2 S&E-2 reads as follows:

THE PRESIDENT: Committee Report LG-1.

MR. QUILLEN: A Committee Report LG-1 by the Committee on Local Government. This is referred to the Committee on Calendar and Agenda.

THE PRESIDENT: Any announcements?

DELEGATE MUDD: There will be a meeting of my committee at 12:00 o'clock Monday.

DELEGATE PENNIMAN: I would like to remind the members of the Committee on Style that there will be a meeting at ten o'clock on Monday. It is a most important

meeting, and I would hope that all members would be there.

THE PRESIDENT: Any other announcements by committee chairmen?

Any announcements by other delegates?

DELEGATE SHERBOW: I did want to suggest on behalf of the entire assembly that we express our thanks to the volunteer pages who came here today and did so nobly. I have a little selfish reason for making this announcement.

THE PRESIDENT: The Chair was about to announce that and the Chair would like to do so and read the names, if I may. As all of you have observed, the pages are not the usual pages. For reasons indicated yesterday the pages are not here today. I hope they have had as much success as the Navy has had.

In the meantime, we have had serving as some of the regular pages Jim Cockey, Melissa Smith, Susan Mester, Kathy Drake, Angie Shuey and Clifford Wright. We also had Harry Ivrey who for some curious reason is not labeled as substitute but guest, and also Ricky Bernam; labeled as a guest, an awful way to treat the guests, Bob Young and Don Gohn. Barbara Marx and Jeffrey Lapides have served as

pages. They are grandchilren of Delegate Sherbow. Ann Bridgeman is the grandaughter of Delegate Churchill Murray. In addition, members of the professional staff: Ros Conn, Gail Moran, Trish Byrnes, Carol Hennegan, Betsy Crone and Nancy Velie have substituted as pages, and I give them a vote of thanks. (Applause)

Are there any other announcements by delegates?

Any delegates present now not present at roll call may indicate their presence at the supplementary roll call. The Clerk will record the supplemental roll call.

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. President, in view of the earlier announcement that we would have night meetings on Monday, Wednesday and Friday and latter development that we would have only two night sessions, I suggest that the night meeting be on Wednesday in addition to Monday. The program, by way of recapitulation for next week will be that we will convene at 2:00 p.m. on Monday and at around 6:00, recess for an hour and a half and adjourn at ten. On the Tuesday schedule will be from ten to six with an hour and a half in the middle of the day.

Wednesday beginning at ten, but a night session until ten.

Thursday ten until six.

Friday ten until six and Saturday ten until six.

I move that we adjourn until two p.m. on Monday.

(Seconded)

THE PRESIDENT: All those in favor signify by saying Aye. Contrary No. The Ayes have it and so ordered.

(Whereupon the Convention was adjourned at 5:40 p.m.)

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